PIL Petition No. 14 of 2010

Goa Foundation ..... *Petitioner*

V/s

Goa Cricket Association (GCA); State of Goa through Chief Secretary; State of Goa through Conservator of Forests .....*Respondent*

Issues: The High Court disposed of WP No. 321/2010 with a judgment dated 12/08/2010 where it recorded the solemn assurances on oath by the Goa Cricket Association that it will not commence construction of its project of building an international cricket stadium until it procures necessary clearances. However, without obtaining the mandatory environmental clearance GCA has commenced with construction of phase 1 of its construction of the stadium in the 2nd week of December 2010 and 125 trees have been felled in the non-Forest area and excavators and trucks have begun to excavate the land for purpose of construction of the stadium.

Hence the Goa Foundation filed a petition for the second time against the GCA challenging the Government of Goa's approval for felling 125 trees under the Goa Trees Act 1984by its NOC dated 2/12/2010 and seeking termination of all activities at the site.

During the pendency of the petition the court recorded on 27th December 2011 a statement made by counsel for GCA that it has discontinued all work at the site. No further work was thereafter done at the site. On the 3rd February 2011 the MoEF wrote a letter dated 3rd February 2011 to the Secretary (Forests) Government of Goa to inform them that approval for project has been held in abeyance till further notice. On 24th February 2011 the Goa State Environment Impact Assessment Authority granted the GCA prior conditional EC subject to NOC from the MoEF regarding the diversion of forest land. Hence, until forest clearance was received no further wok could be done at the site.

Judgment:

29th March 2011: The Court decided to dispose of the petition in view of the letter of the MoEF dated 3rd February 2011 holding the forest approval in abeyance and the Goa –SEIAA letter dated 24th February 2011 granting the GCA prior conditional EC subject to NOC from MoEF regarding diversion of forest.

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 14 OF 2010

GOA FOUNDATION, THROUGH ITS SECRETARY , DR. CLAUDE ALVARES ... Petitioner

Versus

GOA CRICKET ASSOCIATION THROUGH ITS SECRETARY AND ANR., ... Respondent

Mrs. Norma Alvares, Advocate for the petitioner.
Mr. S. G. Dessai, Senior Advocate with Mr. S. Naik, Advocate for respondent No.1.
Mr. S. S. Kantak, Advocate General with Mr. P. Talaulikar, Addl. Govt. Advocate for respondents No.2 and 3.

Coram:- S. C. DHARMADHIKARI & F. M. REIS, JJ.

Date:- 29th March, 2011

P.C.:-

This Public Interest Litigation has been initiated to seek a writ or order directing the respondents to restore the land to its original status and for quashing and setting aside the No Objection Certificates dated 26/11/2010 and 2/12/2010. It is not dispute before us that Writ Petition No.321/2010 was filed by the very petitioner to challenge the approvals granted by the Ministry of Environment and Forests for diversion of 44,000 sq. metres of forest land at Tivim Village for construction of commercial facilities connected with the development of the cricket stadium, which is proposed to be constructed by Goa Cricket Association-Respondent No.1, on the ground that the approvals granted for diversion of the forest land to no-forestry purpose are not in consonance with the guidelines laid down while implementing the Environment Protection Act.

ADVINUS

To

Date: 8th April 2011.

The Director (AW) & Member Secretary CPCSEA
Ministry of Environment & Forests
Animal Welfare Division
8th Floor, Jeevan Prakash Building
25, Kasturba Gandhi Marg
New Delhi 110 001

Subject: CPCSEA consideration of the Research Protocols - regarding
Reference: Your letter No. F.No. 25/31/2011-AWD dated 23rd March2011

Dear Sir,

This has reference to your letter, F.No. 25/31/2011-AWD dated 23rd March 2011 which notified us the decision of the XXXVIII CPCSEA meeting regarding Proposal Nos. 066/2010 to 074/2010 (project codes: DRF-1/2011 to DRF-4/2011, SCD-1/2011 to SCD-04/2011, and ATL-I-SP-D/CV-RT/2011).

We understand that the Committee perused the research protocol and found the number of animals to be used is very high and hence the committee has desired a presentation from the establishment/Institute.

As per the recommendations of the Committee, Advinus will be glad to make a presentation regarding the number of animals to be used in these studies to the CPCSEA.

Please note that we had additionally submitted 18 proposals (six each for MTD, DRF, and SCD studies) for the same type of studies on 11th Feb 2011 to the CPCSEA for kind consideration. We would request the Committee to consider these 18 proposals also for discussions/presentation at the next meeting.

We request CPCSEA to kindly inform us the date and venue of the meeting for our participation.

Thanking You,
Yours faithfully,
For Advinus Therapeutics Limited,

Nimish Vachharajani, PhD, DABT
Senior Vice President

Copy to: (1) Mr. MF Farooqui, Chairman CPCSEA, Additional Secretary, Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi, (2) Dr. M. R. Gajendragad, Principal Scientist, Project Directorate on Animal Disease Monitoring & Surveillance, Indian Council of Agricultural Research, Hebbal, Bangalore, and (3) Mrs. Sanober Z. Bharucha, Southern Cross, 9A, Myrtle Lane, Richmond Town, Bangalore.

20/4

20-4-11 EC

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21 & 22, Phase II, Peenya Industrial Area, Bangalore- 560 058.
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ATATA Enterprise

2. In that Writ Petition, certain directions were issued and in addition, liberty was granted to the Petitioner to make a representation pertaining to some of the grievances.

3. In all fairness, now our attention is invited to the order passed on 12th August, 2010 and the representation made in pursuance thereof.

4. The Petition was filed in this Court on 23rd December, 2010 and the Petitioner has amended the Petition thereafter by pointing out that a precautionary letter was addressed on 6th December, 2010 to Respondent No.3, drawing his attention to the order of this Court and thereafter Respondent No.3 wrote to respondent No.1 imposing condition that the tree felling is agreed subject to compliance of the order passed by this Court in the earlier Writ Petition. Further the petitioner has drawn attention of the Authorities to the EIA Notification and the undertaking given by Respondent No.1 and therefore prayed that the approvals ought to have been withdrawn. It is on this basis, it is stated that there is a fresh cause of action. However, it is also mentioned in the Petition that by a letter dated 3rd February, 2011, addressed by the Ministry of Environment and Forests, to the Secretary (Forests), Government of Goa, it has been conveyed that the forest clearance earlier granted in favour of the Director of Sports & Youth Affairs is kept in abeyance till a decision is taken on the representation of Goa Foundation. It is the case of the Petitioner that this letter, therefore, puts the clearance on hold.

5. Our attention has also been invited to a letter dated 25th March, 2011, a copy of which is at page 185-Exhibit 24, written by Goa State Environment Impact Assessment Authority to Respondent No.1-Association and while referring to the application seeking prior environmental clearance for the entire project, the Authority has

1. APPLICATION FOR CPCSEA FOR CONDUCTING EXPERIMENTS IN BEAGLE DOGS AND GOATS, PROPOSAL NO. 049/2010, 050/2010 AND 058/2010

2. MINUTES OF THE 27TH IAEC MEETING OF ADVINUS THERAPEUTICS PRIVATE LIMITED, BANGALORE – 58

3. CHECKLIST, FORM B AND BANK STATEMENT FOR PROPOSAL NO. 049/2010.

4. CHECKLIST, FORM B AND BANK STATEMENT FOR PROPOSAL NO. 050/2010.

5. CHECKLIST, FORM B AND BANK STATEMENT FOR PROPOSAL NO. 058/2010.

6. GLP AND AAALAC CERTIFICATES

stated that after appraisal of the project on the basis of the documents and Conceptual Plan, as well as additional clarification furnished, the proposal for grant of environmental clearance for the proposed construction of the International Cricket Stadium has been scrutinised and condition at clause 3 entitled "General Conditions" and clause 4 entitled "Specific Conditions", were imposed. So also it refers to compliance with the approvals/clearance from the Statutory Authority concerned in the Government of Goa, Ministry of Environment and Forests or Government of India. Further it states that the compliance has to be made with the directives in the Order dated 12th August, 2010 in Writ Petition No.321/2010 and the present PIL Writ Petition No.14/2010.

6. It is stated by Ms. Alvares appearing on behalf of the Petitioner that both the communications which are subsequent to the institution of this writ petition sufficiently take care of the grievance of the Petitioner, which is filed in public interest. She states that, in the light of the conditions imposed, presently, there is no development at site. In these, circumstances, she submits that the Petition may be disposed of in the light of these communications/letters from the competent Authorities.

7. Having perused these letters and bearing in mind that there is no challenge thereto raised by Respondent No.1 Association, or that there is any occasion for the Petitioner to impugn them, we are of the opinion that this Petition, filed in public interest, can be disposed of in view of the contents of the letters dated 3rd February, 2011 and 25th March, 2011 (Exhibits 9 and R-25, respectively annexed to this Writ Petition).

8. Accordingly, we dispose of this Writ Petition, as these communications substantially take care of all grievances of the

1160

ADVINUS

08th September, 2010

The Director & Member-Secretary CPCSEA,
Animal Welfare Division,
Ministry of Environment and Forests,
Jeevan Prakash Building, 8th Floor,
25 Kasturba Gandhi Marg,
New Delhi – 110 001

Ph: 011-23327331

Dear Sir,

Sub: Application for CPCSEA permission for conducting Experiments in Beagle dogs and Goats Proposal No. 049/2010, 050/2010 and 058/2010

Ref: CPCSEA Registration No.2/1999/CPCSEA Dated 09/03/1999, date of Renewal 16/10/2009

We are enclosing 15 (1 original and 14 photocopy) copies of project proposals for your kind consideration and approval. These proposals have been reviewed and approved by our IAEC during its 27th meeting held on 12th August 2010. We are herewith enclosing the application along with the related documents, listed below for CPCSEA approval.

1. Pharmacokinetics of test compounds in Beagle dog Test compounds may include pharmaceutical agents like antihypertensives, antidiabetics, antimicrobials etc. - Proposal No.049 along with the checklist.

2. Evaluation of test item (herbicide) for Acute Oral Toxicity in Livestock (Goats) – Proposal No.050/2010 along with the checklist.

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A TATA Enterprise

Petitioner and the Authorities have taken note of the Writ Petition filed in December, 2010.

S. C. DHARMADHIKARI, J.

F. M. REIS, J.

ssm.

3. Bioavailability and Bioequivalence (BA/BE) studies of test compounds in Beagle dog Test compounds may include pharmaceutical agents like antihypertensives, antidiabetics, antimicrobials etc. - (Proposal No.058/2010) along with the checklist.

The above 3 proposals requires the following number of animals:

Sl. No	Proposal No.s	Study type	No. of animals required per study			No.of proposals
			M	F	Total	
1	049/2010	PK-Dog	40 or	40	40	75*
2	058/2010	PD-Dog BA-BE	50 or	50	50	8#
3	050/2010	AT-Live Goat	4-8	4-8	8-16	1

*: The above stated 40 animals will be used after a washout period to conduct 75 studies.

#: The above stated 50 animals will be used after a washout period to conduct 8 studies

However, all efforts will be made to use the minimum number of animals and the actual number of animals used shall be provided to the IAEC and further updated to the CPCSEA.

1. The minutes of the 27th IAEC meeting along with the enclosures

2. A copy of AAALAC certificate, GLP Certificate issued by the Indian National GLP Monitoring Authority, GLP Certificate issued by the German GLP Federal Bureau, GLP Certificate issued by the Netherlands GLP Federal Bureau.

The proposals covered in the application are essential for the development of the chemical or biological entities for meeting the regulatory requirements from the point of assessing safety.

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Minutes of the 1st Goa State Environment Impact Assessment Authority (Goa- SEIAA) meeting held on 24th February 2011 at 11. 30 a.m. in the Conference Room of the Goa State Pollution Control Board (GSPCB), Patto, Panaji.

The first meeting of the Goa-SEIAA was held on 24th February 2011 at the Conference room of the GSPCB under the Chairmanship of Mr. Jose Manual Noronha, Chairman, Goa-SEIAA. The list of members is annexed herewith.

At the outset, Mr. Michael M. D'Souza, Member Secretary, Goa-SEIAA welcomed the Members and informed that the Ministry of Environment & Forests (MoEF) has constituted the State Expert Appraisal Committee (Goa-SEAC) and State Environment Impact Assessment Authority (Goa-SEIAA), as mandated in the Environment Impact Assessment (EIA) Notification, 2006, in April 2010. Further, he requested Dr. Mohan R. Girap, Secretary, Goa-SEAC to appraise the members on two important issues namely – (a) salient features of the Environment Impact Assessment (EIA) Notification, 2006 and the mandate as well as objectives for the constitution of SEIAA & SEAC in respective States and (b) Modus operandi to scrutinize project proposal seeking prior Environmental Clearance (EC) for construction-related projects.

Subsequently, Secretary, Goa-SEAC made PowerPoint (*.ppt*) presentations on these aspects with reference to the State of Goa. Further, he informed that the Committee had received seven proposals (07) from various project proponents which were 'screened' (in the absence of issuance of any guidelines, till date, by the MoEF as regard to its sub-categorization into B1 and B2) under category 8(a) (B2) – i.e. Building and Construction projects with built-up area $\geq$ 20,000 sq. m. and $<$ 1,50,000 sq. m.

2. The details of the proposals to be considered for issuing prior Environmental Clearance (EC) are as under:-

1. Goa Cricket Association (GCA) for the proposed construction of international cricket stadium in Acoi village near Thivim, Bardez taluka, North Goa.

2. M/s Alcon Constructions (Goa) Pvt. Ltd., Panaji for the proposed construction of 250-bedded Hospital-cum-hotel in Taleigao, Tiswadi taluka, North Goa.

3. M/s Rockfirst Real Estate Ltd., Mumbai for the proposed construction of residential apartment in Reis-Magos, Alto-Betim, Bardez taluka, North Goa.

4. M/s Nitin Developers Pvt. Ltd., Panaji for the proposed extension of a construction of residential complex in Socorro village, Bardez taluka, North Goa.

5. M/s Buildmore Infrastructure (India) Pvt. Ltd., Panaji for the proposed residential-cum-commercial complex in Khorlim village near Mapusa, Bardez taluka, North Goa.

6. M/s Gera Developments Pvt. Ltd., Pune for the proposed construction of premium housing and commercial development in Khandola village, Ponda taluka, North Goa.

7. M/s K. Raheja Universal Pvt. Ltd., Mumbai for the proposed construction of residential complex in Carmona village, Salcete taluka, South Goa.

detailed discussions and consideration. Chairman, Goa-SEIAA opined that common recommendations of the Goa-SEAC be made mandatory for all the project proponents except sr. no. (6) related to Corporate Social Responsibility (CSR), for which it was opined that it would not be in the mandate of the SEIAA to so recommend. However, it is open for the Government to decide in the matter. Thereafter, the matters were taken up on case-to-case basis for detailed scrutiny.

Project-wise decisions are as under:-

A. **Goa Cricket Association (GCA)** has proposed to construct international cricket stadium in 32 acres (i.e. 1,30,328 sq. m.) of land in Acoi village near Thivim in Bardez taluka of North Goa district.

Member Secretary, Goa-SEIAA informed the members about the communication received from the Ministry of Environment & Forests (MoEF) dated 3rd February 2011 conveying that the decision to issue forest clearance for the proposed international cricket stadium has been kept in abeyance. In response to the same, the Authority agreed to the observations / comments of the Goa-SEAC and considered that the matter, being subjudice / under legal intervention, the project proposal be granted prior conditional EC subject to the following:–

1. Compliance to the High Court directives in the matter related to the Writ Petition No. 321/2010 and PIL W. P. No. 14/2010 filed in the Hon'ble High Court of Goa at Bombay by M/s Goa Foundation as well as other Writ Petitions filed, if any.

2. Response / NOC from the Ministry of Environment & Forests (MoEF) in the matter related to forest clearance towards diversion of private forest for the proposed developmental activity.

3. Submission of the Geotechnical soil analysis/report to ascertain the soil characteristics as well as groundwater status and its recharge potential.

4. Provision of widening the State Highway – the only approach road to the proposed project site, in addition to the provision for an alternate exit-road / secondary road along the north-east periphery of the plot boundary to minimize traffic congestion / vehicular movement.

5. Submission of location-specific details of the proposed bore well as well as 32 numbers of rainwater harvesting pits, superimposed on the contour map of the proposed plot area on a decipherable scale (1:500).

6. Provision for exclusive fire-escape routes / staircase to avoid stampede during such eventualities.

B. **M/s Alcon Constructions (Goa) Pvt. Ltd.**, has proposed to construct a 250-bedded hospital-cum-hotel (42 rooms) comprising of G + 5 upper floors and 1 basement in 11,988.67 sq. m. of land in Taleigao village of Tiswadi taluka of North Goa district.

The Authority agreed to the observations/comments of the Goa-SEAC and considered that the project proposal be granted prior conditional EC subject to compliance to the following:-

1. The proposed plot area, being an abandoned waste dumping site, 5 to 6 m of top material is organic-rich fertile soil and should be utilized for landscaping development in non-construction areas.

2. The project proponent (PP) must ensure that the effluents / waste water in the adjoining St. Inez nallah should not infiltrate within the project site and

सत्यमेव जयते

भारत सरकार
पर्यावरण एवं वन मंत्रालय
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
क्षेत्रीय कार्यालय (दक्षिण वलय)
Regional Office (Southern Zone)
Kendriya Sadan, 4th Floor, E&F Wings, 17th Main Road,
2nd Block, Koramangala, Bangalore - 560 034

No. :
तार : पर्यावरण, बेंगलूर
Telegram : PARYAVARAN
BANGALORE
दूरभाष :
Telephone : 080-25635908
Tele Fax : 080-25537184

No.4-GOB427/2007-BAN/ 85-79
Dated the 3rd February, 2011

To

The Secretary (Forests),
Government of Goa,
Secretariat Annexe,
Junta House, 3rd Floor,
Panaji (Goa).

Subject: Diversion of 4.3725 ha. of private forest land for International Cricket Stadium at Tivim in North Goa District, in favour of Director of Sports & Youth Affairs, Goa.

Sir,

I am directed to refer to this office letter No.4-GOB427/2007-BAN dated the 23rd October, 2008 wherein approval under Section'2' of Forest (Conservation) Act, 1980 for the above project was accorded subject to certain conditions. As per the proposal of the State Government, construction of International Cricket Playfield is proposed in the forest land. Subsequently, M/s Goa Foundation had filed a W.P.No.321/2010 in the Mumbai High Court, Panaji Bench objecting diversion of forest land for construction of International Cricket Stadium at Tivim. The petitioner *inter-alia* alleged that it is proposed to construct buildings for commercial activities including malls, restaurants, hotels etc. in the proposed forest area. In view of the above, this office vide letter No.F©A/12.7/451/GOA dated 20.05.2010 had requested the State Government to furnish details of activities proposed in the forest land along with a sketch of the layout. The Mumbai High Court, Panaji Bench while disposing of the W.P. No.321/2010 vide order dated 12.08.2010 had directed the following among others:-

"It will be open for the petitioners to make a representation to the first respondent raising all the grievances which are made in this petition. First respondent shall deal with the representation as expeditiously as possible".

In pursuance of the order of the Hon'ble High Court of Bombay at Goa in Writ Petition No.321/2010 dated 12.08.2010, the petitioner, M/s Goa Foundation vide letter dated 14.09.2010 had submitted a representation to this office with a request to withdraw/revoke the approval granted under Forest (Conservation) Act, 1980 for the above project. This office vide letter of even number dated 30.09.2010 had requested the reply of State Government on the representation of M/s Goa Foundation along with details sought by this office vide letter No.F©A/12.7/451/GOA dated 20.05.2010 within a period of one month. The State Government was also requested to ensure that no work is carried out in the diverted forest land for the above project in the meantime and until further orders. Meanwhile, another representation on behalf of Mr. Victor Agnelo Alvares, Mr. Ladislaus Fernandes and Mr. Santan Marcel Godinho has been received in this office for cancellation of the approval granted for the project under Forest (Conservation) Act, 1980, reconsider

the entire matter by conducting a detailed survey and environment assessment study of the area and its surroundings, hear on the above issues before taking any further decision to grant approval to the project. On perusal of the said representation, it was noticed that the issues raised are similar to those raised by M/s Goa Foundation. Since the State Government's reply on the representation of M/s Goa Foundation was not received, this office vide letter dated 22.12.2010 reminded the State Government for the same. Now, Shri Victor Agnelo Alvares & Others have filed a Writ Petition in Hon'ble High Court of Bombay at Panaji, Goa in which the petitioners have sought quashing and setting aside the approval granted for the project under Forest (Conservation) Act, 1980.

It is once again requested that the requisite information sought by this office vide letter dated 30.09.2010 may please be furnished within a period of one month so that the representation could be dealt with in compliance of the orders of the Hon'ble High Court of Bombay at Panaji dated 12.08.2010 in Writ Petition No.321/2010. It has been decided to keep the approval granted by this office vide letter No.4-GOB427/2007-BAN dated the 23rd October, 2008 under Forest (Conservation) Act, 1980 for diversion of 4.3725 ha. of private forest land for International Cricket Stadium at Tivim in North Goa District, in favour of Director of Sports & Youth Affairs, Goa in abeyance till a decision is taken on the representation of M/s Goa Foundation.

Yours faithfully,

(N.S.Murali)
Deputy Conservator of Forests (Central)

Copy to:-

1. The Director General of Forests & Special Secretary to Govt. of India, Ministry of Environment & Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi – 110 003.

2. The Additional Principal Chief Conservator of Forests, Government of Goa, Forest Department, Panaji (Goa).

3. The Deputy Conservator of Forests (M&E), Govt. of Goa, Forest Department, Panaji (Goa), PIN- 403 001.

4. The Director of Sports & Youth Affairs, Directorate of Sports & Youth Affairs, Campal, Panaji (Goa).

5. The Director, Goa Foundation, G-8, St Britto's Apartments, Feira Alta, Mapusa 403507, Goa.

6. Guard file.

(N.S.Murali)
Deputy Conservator of Forests (Central)

Exhibit 9

भारत सरकार
पर्यावरण एवं वन मंत्रालय
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
क्षेत्रीय कार्यालय (दक्षिण वलय)
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No.4-GOB427/2007-BAN/ 85
Dated the 3rd February, 2011

To

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Secretariat Annexe,
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Panaji (Goa).

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the entire matter by conducting a detailed survey and environment assessment study of the area and its surroundings, hear on the above issues before taking any further decision to grant approval to the project. On perusal of the said representation, it was noticed that the issues raised are similar to those raised by M/s Goa Foundation. Since the State Government's reply on the representation of M/s Goa Foundation was not received, this office vide letter dated 22.12.2010 reminded the State Government for the same. Now, Shri Victor Agnelo Alvares & Others have filed a Writ Petition in Hon'ble High Court of Bombay at Panaji, Goa in which the petitioners have sought quashing and setting aside the approval granted for the project under Forest (Conservation) Act, 1980.

It is once again requested that the requisite information sought by this office vide letter dated 30.09.2010 may please be furnished within a period of one month so that the representation could be dealt with in compliance of the orders of the Hon'ble High Court of Bombay at Panaji dated 12.08.2010 in Writ Petition No.321/2010. It has been decided to keep the approval granted by this office vide letter No.4-GOB427/2007-BAN dated the 23rd October, 2008 under Forest (Conservation) Act, 1980 for diversion of 4.3725 ha. of private forest land for International Cricket Stadium at Tivim in North Goa District, in favour of Director of Sports & Youth Affairs, Goa in abeyance till a decision is taken on the representation of M/s Goa Foundation.

Yours faithfully,

(N.S.Murali)
Deputy Conservator of Forests (Central)

Copy to:-

1. The Director General of Forests & Special Secretary to Govt. of India, Ministry of Environment & Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi – 110 003.

2. The Additional Principal Chief Conservator of Forests, Government of Goa, Forest Department, Panaji (Goa).

3. The Deputy Conservator of Forests (M&E), Govt. of Goa, Forest Department, Panaji (Goa), PIN- 403 001.

4. The Director of Sports & Youth Affairs, Directorate of Sports & Youth Affairs, Campal, Panaji (Goa).

5. The Director, Goa Foundation, G-8, St Britto's Apartments, Feira Alta, Mapusa 403507, Goa.

6. Guard file.

(N.S.Murali)
Deputy Conservator of Forests (Central)

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 14 OF 2010

GOA FOUNDATION, THROUGH ITS SECRETARY , DR. CLAUDE ALVARES ... Petitioner

Versus

GOA CRICKET ASSOCIATION THROUGH ITS SECRETARY AND ANR., ... Respondents

Mrs. Norma Alvares, Advocate for the Petitioner.

Shri S. G. Dessai, Senior Advocate with Shri S. Naik, Advocate for Respondent No.1.

Shri S. S. Kantak, Advocate General with Shri P. Talaulikar, Additional Government Advocate for Respondent Nos.2 and 3.

Shri P. A. Kamat, Advocate for the Applicant in M.C.A. No.32 of 2011.

Coram:- S.B. DESHMUKH &
F. M. REIS, JJ.

Date:- 17th January, 2011

P.C.:-

Mrs. Norma Alvares, learned Counsel for the petitioner states that she has filed Miscellaneous Civil Application No.32 of 2011 and the said application be tagged along with this petition.

Affidavit is filed on behalf of respondent no.1 and is marked 'X' for identification and taken on record.

Stand over tomorrow, 18-1-2011.

Shri P. A. Kamat, learned Counsel has also filed a Miscellaneous Civil Application.

ANNEXURE I

The said matter be listed along with this matter tomorrow.

Shri S. G. Dessai, learned Senior Counsel renews a statement earlier made and part of the order. The statement is accepted and taken on record. This statement to stand till tomorrow.

S.B. DESHMUKH, J.

F. M. REIS, J.

RD.

CHECK LIST

Title of the protocol	Pharmacokinetics of test compounds in Beagle dog Test compounds may include pharmaceutical agents like antihypertensives, antidiabetics, antimicrobials etc. **Project Code : PK-Dog/10** **Proposal No. : 049/2010**
Types of animals and their number to be used	Beagle Dog About 1-5 years Total number of dogs: 40 No. of studies: 75 **Note**: The above stated 40 animals will be used after a washout period to conduct 75 studies. The PK requirement is 75 studies, each in about 4 dogs or as per the study plan. Each study may take up to 1.5 months for completion (including dosing, washout and recovery); Four dogs can support 8 studies in a year [12/1.5]. Therefore 75 studies each using 4 dogs would require about 40 dogs [75 x 4/8].
Source of procurement of animals	In-house bred (Advinus source); Harlan, UK / The Netherlands; Marshal Beijing, China or any other reputed lab animal suppliers 1. Department of Safety Assessment, Advinus Therapeutics Private Limited Plot Nos. 21 & 22, Phase II Peenya Industrial Area Bangalore – 560 058, Karnataka, India Phone: 080-28394959 Fax: 080-28394015/28396023 2. Harlan UK Limited Shaw's Farm, Blackthorn Biester, Oxon OX25, 1TP, ENGLAND or its unit at the Netherlands or other locations 3. Marshall Beijing Da Yang Fang No.6, An Ding Men Wai, Beijing 100012, PR China

Minutes of the 1st Goa State Expert Appraisal Committee (Goa-SEAC) meeting held on 5th January 2011 at 10.00 a.m. in the Conference Room of the Goa State Pollution Control Board (GSPCB), Patto, Panaji.

The first meeting of the Goa-SEAC was held on 5th January 2011 at the Conference room of the GSPCB under the Chairmanship of Dr. S. P. Fondekar, Chairman, Goa-SEAC. The list of members is annexed at "Annexure – 1", while the list of Project Proponents (PP) who made the presentation on the respective project proposal is annexed at "Annexure – 2".

At the outset, Chairman, Goa-SEAC welcomed and complemented all the members for attending the first meeting. Subsequently and with due permission from the Chairman, Dr. Mohan R. Girap, Secretary, Goa-SEAC requested all the members to introduce themselves as the Committee is officially meeting for the first time since it has been notified by the Ministry of Environment & Forests (MoEF) in April 2010. Further, he appraised the members on two important issues namely – (a) salient features of the Environment Impact Assessment (EIA) Notification, 2006 and the mandate as well as objectives for the constitution of the State Environment Impact Assessment Authority (SEIAA) & State Expert Appraisal Committee (SEAC) in respective States and (b) Modus operandi to scrutinize project proposal seeking prior Environmental Clearance (EC) for construction-related projects, with the help of powerpoint presentations *(.ppt)*. He also informed that the Goa-SEAC, currently being operated from the O/o the Department of Science, Technology & Environment (DST&E), Saligao, has received seven proposals (07) from various project proponents which has been 'screened' (in the absence of issuance of any guidelines, till date, by the MoEF as regard to its sub-categorization into B1 and B2) under category 8(a) (B2) – i.e. Building and Construction projects with built-up area ≥ 20000 sq. m. and < 1,50,000 sq. m.

The details of the proposals received are as under:-

1. Goa Cricket Association (GCA) for the proposed construction of international cricket stadium in Acoi village near Thivim, Bardez taluka, North Goa.

2. M/s Alcon Constructions (Goa) Pvt. Ltd., Panaji for the proposed construction of 250-bedded Hospital-cum-hotel in Taleigao, Tiswadi taluka, North Goa.

3. M/s Rockfirst Real Estate Ltd., Mumbai for the proposed construction of residential apartment in Reis-Magos, Alto-Betim, Bardez taluka, North Goa.

4. M/s Nitin Developers Pvt. Ltd., Panaji for the proposed extension of a construction of residential complex in Socorro village, Bardez taluka, North Goa.

5. M/s Buildmore Infrastructure (India) Pvt. Ltd., Panaji for the proposed residential-cum-commercial complex in Khorlim village near Mapusa, Bardez taluka, North Goa.

6. M/s Gera Developments Pvt. Ltd., Pune for the proposed construction of premium housing and commercial development in Khandola village, Ponda taluka, North Goa.

7. M/s K. Raheja Universal Pvt. Ltd., Mumbai for the proposed construction of residential complex in Carmona village, Salcete taluka, South Goa.

Further, Chairman, Goa-SEAC requested respective Project Proponents to make presentation in response to their application seeking prior EC for the proposed construction activity / developmental project. Subsequently, based on the clarification sought from respective project proponents vis-à-vis detailed in-depth deliberations on all the project activities, independently, and also taking into account overall picture at the project site during site-inspection, following common recommendations are suggested:

1. Nutrient-rich top soil excavated during the construction phase be separately dumped/stored within the project area and be utilized during landscape development instead of using the same as filling material/reclamation. Accordingly, PP should

estimate approximate tonnage / volume of top soil required to be excavated along with the plan indicating the location where such topsoil is proposed to be stockpiled as well as indicate/furnish proposed plan for its utilization towards landscaping.

2. The PP should use Ready-Mixed Concrete (RMC) to minimize air / water / land pollution and water usage during the construction phase.

3. The Project Proponent (PP) should necessarily explore the possibility of energy conservation by tapping solar-based or hybrid energy sources towards power requirement.

4. PP should adopt roof-top rainwater harvesting / conservation measures in the form of storing the harvested water so as to optimally utilize the water availability by constructing sumps for collection of rainwater or by collecting water in large polythene tanks thereby saving on utilization of tap water. Accordingly, PP should furnish approximate quantity of the water proposed to be stored / conserved which should be proportionate with the available rainfall within the developmental area. This should be in addition to structures, proposed if any, namely recharge-pits which would recharge the groundwater aquifers. Thus, PP should submit a plan demarcating the areas for water storage / bore well location & groundwater recharge structures / STP installation, etc.

5. PP should make provision for corpus fund for post-project operation and maintenance (O & M), by establishing a registered society / association so as to make maintenance activity self-sustainable.

6. As a Corporate Social Responsibility (CSR), the PP should establish / assist in establishing a non-project based infrastructure facility for nearby society / community / local authority and set-up a precedent for other competitors so as to achieve bottom-top approach.

7. PP should prioritize the issues related to health and hygiene in complying with the matters related to waste disposal & treatment / air & water pollution / waste-water management.

8. PP should not disturb the natural drainage and as far as possible maintain the original topography while designing for landscape development by planting local site-specific plant species and which are not alien to the local environment. No any varieties of acacia be used either as avenue plantations or as live-fencing.

9. PP should clarify any issue related to public objections, if any, and should not conceal the scientific facts in light of the proposed developmental activity vis-à-vis its landuse categorization/zoning.

10. PP should also submit Half-yearly compliance report(s) in hard as well as soft copy format to the O/o the Goa-SEAC for the period upto project completion so as to enable project monitoring during the construction phase.

Project-wise comments are listed as under:-

A. **Goa Cricket Association (GCA)** has proposed to construct international cricket stadium in 32 acres (i.e. 1,30,328 sq. m.) of land in Acoi village near Thivim in Bardez taluka of North Goa district.

Location details – Survey Nos. 404P, 403/1P, 405/P, 408/P431/1P, 432/2P, 431/3 to 29, 431/30P, 432/2P, 432/2 to 20, 430/1A, 430/1A-12, 430/1A1, 430/1B, 430/1

Total built-up area – 45,087 sq. m. (about 35%)

Total parking area – 24,911 sq. m.

Proposed ground coverage – 32,183 sq. m. (22%)

Total green area – 1,00,352.56 sq. m.(77%)

Estimated cost – 160 crores

Seating capacity – 46, 575 seats

Total parking (open and enclosed) – 668 cars, 198 two-wheelers.

Water requirement – 1221 KLD – during Games
493 KLD – during normal days – to be provided through PWD (PHE) as well as bore wells.

Total waste-water generated –1050 KLD to be treated using 1260 KLD Sewage Treatment Plant (STP) working on SAFF (Submerged Aerated Fixed Film) technology which will generate 840 KLD of treated water to be used for flushing and landscape.
Rainwater harvesting (RWH) initiative – (1) 32 rainwater harvesting pits are proposed for artificial rainwater recharge. (2) Desilting tanks and Recharge wells are proposed.

Power requirement – 3223 KVA to be sourced through Electricity Department and is supported with 3 DG sets of 1250 KVA each capacity are proposed.

Solid waste generated – 6835 kg./day (during games)
- 963 kg/day (during normal days)

The Committee observed that -

1. The importance as well as priority objective of constructing another stadium in Thivim (North Goa), in addition to one at Fatorda (South Goa), was deliberated in detail. Accordingly, the modus operandi to upgrade / modify the existing facility at Fatorda stadium was put forth so as to minimize the financial liability, resource utilization & its limitations, post-project management, etc., keeping in view the limited utility (i.e. 3 – 4 matches a year) of the proposed facility.

2. The matter related to utilization of the stadium/facility during normal periods (i.e. non-game periods) was also discussed in light of the investment of huge capital cost, project maintenance vis-a-vis corporate-social responsibility / community entrepreneurship initiatives, etc.

3. It is informed that the matter pertaining the "issuance of approval for diversion of forest land" to the Directorate of Sports and Youth Affairs granted under the Forest (Conservation) act, 1980 has been stayed by the Ministry of Environment & Forests (MoEF) pursuant to Writ Petition No. 321/2010 and PIL W. P. No. 14/2010 filed in the Hon'ble High Court of Goa at Bombay by M/s Goa Foundation.

4. The possibility of widening the State Highway – the only approach road to the proposed project site be taken on priority so as not to disturb daily vehicular movement. Further, an alternate exit-road / secondary road need to be constructed along the north-east periphery of the plot boundary to minimize traffic congestion.

5. Geotechnical soil analysis may please be carried out to ascertain the soil characteristics as well as groundwater status and its recharge potential. It is not advisable to solely opt for recharging of groundwater through recharge-pits, instead make a provision for optimum utilization/storage of rainwater to be used in fair-weather season.

6. Location-specific details of the proposed bore well as well as 32 numbers of rainwater harvesting pits, superimposed on the contour map of the proposed plot area, be furnished.

7. PP should make a provision for exclusive fire-escape routes / staircase to avoid stampede during such eventualities. The PP should submit 'Stability' as well as 'Fire Safety' Certificates as per the conceptual plan proposed.

8. It is advisable to construct composting pits within the project site to treat the biodegradable waste – bio-composting technique and utilize the manure to maintain the green-field area.

9. As far as possible, Sodium Hypochloride treatment proposed for 'Chlorination' during the tertiary treatment of raw wastewater should be avoided.

Comment – In response to sr. no. (3) above, the proposal may be considered subject to compliance to the High Court directives in the matter related to aforesaid PIL and/or MoEF response in the matter. Further, PP may be requested to comply with other observation as mentioned above.

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 14 OF 2010

GOA FOUNDATION, THROUGH ITS SECRETARY , DR. CLAUDE ALVARES ... Petitioner

Versus

GOA CRICKET ASSOCIATION THROUGH ITS SECRETARY AND ANR., ... Respondent

Mrs. Norma Alvares, Advocate for the Petitioner.
Mr. S. G. Dessai, Senior Advocate with Mr. S. Naik, Advocate for Respondent No.1.
Mr. S. S. Kantak, Advocate General with Mr. P. Talaulikar, Additional Government Advocate for Respondent Nos. 2 and 3.

Coram:- F. M. REIS, J.

Date:- 31st December, 2010

P.C.

Heard learned Counsel Mrs. Norma Alvares for the Petitioner. Shri S. G. Dessai, learned Senior Counsel for Respondent No.1 and Shri P. Talaulikar, learned Additional Government Advocate for Respondent Nos. 2 and 3.

2. Affidavit filed by Shri P. Talaulikar, learned Addl. Government Advocate on behalf of Respondent Nos. 2 and 3 is taken on record.

3. After hearing the matter for some time, Shri S. G. Dessai, learned Senior Counsel fairly states that the statement made at para 8 of the order passed by this Court on 27th December, 2010 shall continue up to the next date of hearing i.e. 5th January, 2011. The said statement is accepted. Place the matter for further hearing on 5th January, 2011.

F. M. REIS, J.

at*

Sl. No	Project Title/Code	Comments of Sub-Committee	Response by Advinus
3	Bioavailability and Bioequivalence (BA/BE) studies of test compounds in Beagle Dog. Project Codes: BA-BE-Dog/10	No test item details furnished.75 studies are proposed. Details are not provided. Protocol is in order. However, PI is seeking blanket permission without any details on the test item	There appears to be a typographical (cut-and-paste) error as given above. This proposal is for eight (8) bioavailability and bioequivalence studies. These studies are designed to demonstrate equivalence of a generic animal health product to innovator's commercial product. The-test items are coded as BA/BE/1 to BA/BE/8. The relevant confidential information will be included in respective study protocols. These are non-terminal and mandatory studies and are required by regulatory agencies.

I trust that you will find our responses/clarifications satisfactory. All the requested studies are for new molecular entities or new/novel formulations under development. These studies will not result in any duplication of research.

We request your immediate attention as the proposals were submitted in September 2010.

Look forward to receive your kind approval,

Thanking You,

Yours faithfully,
For Advinus Therapeutics Limited,

08Apr2011

Nimish Vachharajani, PhD, DABT
Senior Vice President

This response has been reviewed and approved by:

8/4/11

Dr. M. R. Gajendragad
CPCSEA Nominee

Mrs. Sanober Bharucha
Socially Aware member-CPCSEA Nominee

Copy to: (1) Mr. MF Farooqui, Chairman CPCSEA, Additional Secretary, Ministry of Environment and Forests, Paryavaran Bhawan, CGO Complex, New Delhi, (2) Dr. M. R. Gajendragad, Principal Scientist, Project Directorate on Animal Disease Monitoring & Surveillance, Indian Council of Agricultural Research, Hebbal, Bangalore, and (3) Mrs. Sanober Z. Bharucha, Southern Cross, 9A, Myrtle Lane, Richmond Town, Bangalore.

IN THE HIGH COURT OF BOMBAY AT GOA

PUBLIC INTEREST LITIGATION WP NO. 14 OF 2010

GOA FOUNDATION, THROUGH ITS SECRETARY , DR. CLAUDE ALVARES ... Petitioner

Versus

GOA CRICKET ASSOCIATION THROUGH ITS SECRETARY AND ANR., ... Respondents

Mrs. Norma Alvares,Advocate for the petitioner.
Mr. S. G. Dessai, Senior Advocate with Mr. Shirin Naik, Advocate for respondent no.1.
Mr. P. Talaulikar, Additional Government Advocate for respondent nos. 2 and 3.

Coram:- A. P. LAVANDE, J.

Date:- 27th December, 2010

P.C.

The matter is taken up in the chamber.

2. Mrs. Alvares, learned Counsel for the petitioner seeks leave to join the Conservator of Forest, Government of Goa as a party respondent no.3. Learned Counsel for the respondents have no objection. Accordingly, prayer is granted. Amendment to the cause title to be carried out forthwith. Mr. Talaulikar, learned Additional Government Advocate waives notice on behalf of newly added respondent no.3.

3. Affidavit filed on behalf of respondent no.1 is taken on record.

4. Heard Mrs. Alvares, learned Counsel for the petitioner, Mr. Dessai, learned Senior Counsel for respondent no.1 and Mr. Talaulikar, learned Additional Government Advocate for respondent

ADVINUS

1. R.S. Rao

Dr. R.S Rao
Chairperson – IAEC
Advinus Therapeutics Pvt. Ltd.,
21 & 22 Phase II,
Peenya Industrial Area.
Bangalore - 560 058, INDIA.

2.

Dr. Jagannadha Rao,
(Scientist from outside the Institute – CPCSEA)
Professor and Emeritus Scientist,
Dept. of Biochemistry,
Indian Institute of Science,
Bangalore – 560012, INDIA

3. M.R Gajendragad 12/8/10

Dr. M.R Gajendragad
Main Nominee – CPCSEA
Principal Scientist
Project Directorate of Animal Disease Monitoring & Surveillance
(PD_ADMAS), ICAR
Hebbal, Bangalore 560 024
INDIA

5. 12/08/2010

Dr. B R Srinath,
Member – IAEC
(Scientist from Different Biological discipline), Scientist IISc.,
No. 1702, 3rd Cross,
Ramamonhanpuram,
Srirampuram post,
Bangalore-560021, INDIA

6. V Ramanathan 12 August 2010.

Dr. Vikram Ramanathan
(Scientist from Different Biological discipline)Member - IAEC
DMPK Department
Bioanalytical Section
Advinus Therapeutics Private Limited
21 & 22, Phase II,
Peenya Industrial Area,
Bangalore – 560058, INDIA

7. P Prakash 12/8/10

Mr. P J Prakash,
(Biological Scientist)
Member IAEC
Advinus Therapeutics Private Limited
21 & 22, Phase II,
Peenya Industrial Area,
Bangalore – 560058
INDIA

nos.2 and 3.

5. Learned Additional Government Advocate states that respondent no.3 will file affidavit by Wednesday i.e. on 29th December, 2010 with a copy to Mrs. Alvares, learned Counsel for the petitioner. Rejoinder, if any, to be filed by Friday i.e. 31st December, 2010 with an advance copy to learned Senior Counsel appearing for respondent no.1 and learned Additional Government Advocate by Thursday i.e. 30th December, 2010.

6. Mr. Dessai, learned Senior Counsel appearing for respondent no.1 states that presently no construction activities are being undertaken by respondent no.1 in the land acquired for the project. However, respondent no.1 is removing the top surface of land mechanically by using scrapers and excavators so that 8 inches of top surface is removed in order to remove the roots, weeds etc. from the soil so as to prepare a base for commencing the work of laying cricket ground.

7. Mrs. Alvares, learned Counsel for the petitioner states that even if the statement made on behalf of respondent no.1 that they are carrying only the aforesaid works in the acquired land is accepted, respondent no.1 is not entitled to undertake the said work in view of the notification dated 14th September, 2006 issued by Ministry of Environment and Forest.

8. Mr. Dessai, learned Senior Counsel appearing for respondent no.1 states that the notification dated 14th September, 2006 is not applicable having regard to the factual position in the present case. However, Mr. Dessai states that without prejudice to the rights and contentions of respondent no.1, respondent no.1 is ready to discontinue the said work if the matter is taken up expeditiously.

ADVINUS

4. Mrs. Sonaber Z.Bharucha
Non-Scientific Socially Aware member
- CPCSEA, Southern Cross
9A, Myrtle Lane
Richmond Town
Bangalore 560 025, INDIA

8. 12/8/10
Dr. H Krishnappa,
Veterinarian
Convener - IAEC
Advinus Therapeutics Private Limited
21 & 22, Phase II,
Peenya Industrial Area,
Bangalore – 560058, INDIA

9. Statement made by Mr. Dessai, learned Senior Counsel in the presence of Shri Prasad Fatarpekar, Secretary of Goa Cricket Association, who is present in the chamber, is accepted.

S.O. to 31st December, 2010.

A. P. LAVANDE, J.

SMA

ENCLOSURE-3

APPLICATION FOR PERMISSION FOR EXTENSION OF PROJECT DURATION

S. No.	Proposal No.	Project Code and Title	Duration and Number of Animals Proposed	Amended To
1.	10/2008	ATL/SP-D/CV-RT:1-10/2008; Radio telemetry studies of test item in Beagle Dog following oral/parenteral dose administration	Aug/Sep 2008 to Sep/Oct 2010; 48 Dogs of either sex	Duration extended to Aug/Sep 2011 or until total number of animals used which ever is later. In addition, approved number of animals, not implanted (electrodes) may be used for other cardiovascular evaluation, dose range finding study (tolerability, emesis etc.,) and satellite animals for pharmacokinetic sampling (to avoid anomaly in main group telemetry data).

Justification: Since the proposed number of experiments/animals was not utilized fully under the approved Form B in the approval period, an extension of duration is proposed.

This is to certify that the proposal for extension of duration for safety pharmacology experiments has been approved by the IAEC.

Name of Chairman / Member Secretary IAEC: Dr. R. S. Rao

Name of CPCSEA nominee: Dr. Gajendragad

Signature with date

R. S. Rao 12/8/10

Chairman/Member Secretary of IAEC

R. S. Rao 12/8/10

12/8/10

CPCSEA Nominee

सत्यमेव जयते

भारत सरकार
पर्यावरण एवं वन मंत्रालय
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
क्षेत्रीय कार्यालय (दक्षिण वलय)
Regional Office (Southern Zone)
Kendriya Sadan, 4th Floor, E&F Wings, 17th Main Road,
2nd Block, Koramangala, Bangalore - 560 034.

No. :
तार : पर्यावरण, बेंगलूर
Telegram : PARYAVARAN
BANGALORE
दूरभाष :
Telephone : 080-25635908
Tele Fax : 080-25537184

No.4-GOB427/2007-BAN/ 1895-79
Dated the 3rd February, 2011

To

The Secretary (Forests),
Government of Goa,
Secretariat Annexe,
Junta House, 3rd Floor,
Panaji (Goa).

Subject: Diversion of 4.3725 ha. of private forest land for International Cricket Stadium at Tivim in North Goa District, in favour of Director of Sports & Youth Affairs, Goa.

Sir,

I am directed to refer to this office letter No.4-GOB427/2007-BAN dated the 23rd October, 2008 wherein approval under Section'2' of Forest (Conservation) Act, 1980 for the above project was accorded subject to certain conditions. As per the proposal of the State Government, construction of International Cricket Playfield is proposed in the forest land. Subsequently, M/s Goa Foundation had filed a W.P.No.321/2010 in the Mumbai High Court, Panaji Bench objecting diversion of forest land for construction of International Cricket Stadium at Tivim. The petitioner *inter-alia* alleged that it is proposed to construct buildings for commercial activities including malls, restaurants, hotels etc. in the proposed forest area. In view of the above, this office vide letter No.F©A/12.7/451/GOA dated 20.05.2010 had requested the State Government to furnish details of activities proposed in the forest land along with a sketch of the layout. The Mumbai High Court, Panaji Bench while disposing of the W.P. No.321/2010 vide order dated 12.08.2010 had directed the following among others:-

"It will be open for the petitioners to make a representation to the first respondent raising all the grievances which are made in this petition. First respondent shall deal with the representation as expeditiously as possible".

In pursuance of the order of the Hon'ble High Court of Bombay at Goa in Writ Petition No.321/2010 dated 12.08.2010, the petitioner, M/s Goa Foundation vide letter dated 14.09.2010 had submitted a representation to this office with a request to withdraw/revoke the approval granted under Forest (Conservation) Act, 1980 for the above project. This office vide letter of even number dated 30.09.2010 had requested the reply of State Government on the representation of M/s Goa Foundation along with details sought by this office vide letter No.F©A/12.7/451/GOA dated 20.05.2010 within a period of one month. The State Government was also requested to ensure that no work is carried out in the diverted forest land for the above project in the meantime and until further orders. Meanwhile, another representation on behalf of Mr. Victor Agnelo Alvares, Mr. Ladislaus Fernandes and Mr. Santan Marcel Godinho has been received in this office for cancellation of the approval granted for the project under Forest (Conservation) Act, 1980, reconsider

the entire matter by conducting a detailed survey and environment assessment study of the area and its surroundings, hear on the above issues before taking any further decision to grant approval to the project. On perusal of the said representation, it was noticed that the issues raised are similar to those raised by M/s Goa Foundation. Since the State Government's reply on the representation of M/s Goa Foundation was not received, this office vide letter dated 22.12.2010 reminded the State Government for the same. Now, Shri Victor Agnelo Alvares & Others have filed a Writ Petition in Hon'ble High Court of Bombay at Panaji, Goa in which the petitioners have sought quashing and setting aside the approval granted for the project under Forest (Conservation) Act, 1980.

It is once again requested that the requisite information sought by this office vide letter dated 30.09.2010 may please be furnished within a period of one month so that the representation could be dealt with in compliance of the orders of the Hon'ble High Court of Bombay at Panaji dated 12.08.2010 in Writ Petition No.321/2010. It has been decided to keep the approval granted by this office vide letter No.4-GOB427/2007-BAN dated the 23rd October, 2008 under Forest (Conservation) Act, 1980 for diversion of 4.3725 ha. of private forest land for International Cricket Stadium at Tivim in North Goa District, in favour of Director of Sports & Youth Affairs, Goa in abeyance till a decision is taken on the representation of M/s Goa Foundation.

Yours faithfully,

(N.S.Murali)
Deputy Conservator of Forests (Central)

Copy to:-

1. The Director General of Forests & Special Secretary to Govt. of India, Ministry of Environment & Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi – 110 003.

2. The Additional Principal Chief Conservator of Forests, Government of Goa, Forest Department, Panaji (Goa).

3. The Deputy Conservator of Forests (M&E), Govt. of Goa, Forest Department, Panaji (Goa), PIN- 403 001.

4. The Director of Sports & Youth Affairs, Directorate of Sports & Youth Affairs, Campal, Panaji (Goa).

5. The Director, Goa Foundation, G-8, St Britto's Apartments, Feira Alta, Mapusa 403507, Goa.

6. Guard file.

(N.S.Murali)
Deputy Conservator of Forests (Central)

BY SPEED POST

भारत सरकार
पर्यावरण एवं वन मंत्रालय

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
क्षेत्रीय कार्यालय (दक्षिण वलय)
Regional Office (Southern Zone)
Kendriya Sadan, 4th Floor, E&F Wings, 17th Main Road,
2nd Block, Koramangala, Bangalore - 560 034.

सत्यमेव जयते

No.:
तार : पर्यावरण, बंगलूर
Telegram : PARYAVARAN BANGALORE
दूरभाष :
Telephone : 080-2563590
Tele Fax : 080-2553718

Office of the
Ad. Pr. Chief Conservator
of Forests Panaji-Goa.
Inward No. 1847
Book No. 01/10
Date: 24/05/10

No.F©A/12.7/451/GOA/ 7153
Dated the 20th May, 2010

To

The Secretary (Forests),
Government of Goa,
Secretariat Annexe,
Junta House, 3rd Floor,
Panaji (Goa).

Subject: Diversion of 4.3725 ha. of private forest land for International Cricket Stadium at Tivim in North Goa District, in favour of Director of Sports & Youth Affairs, Goa.

Sir,

I am directed to refer to this office letter No.4-GOB427/2007-BAN dated the 23rd October, 2008 wherein approval under Section'2' of Forest (Conservation) Act, 1980 for the above project was accorded. As per the proposal of the State Government construction of International Cricket Playfield is proposed in the forest land. Now, M/s Goa Foundation has filed a W.P.No.321/2010 in the Mumbai High Court, Panaji Bench objecting diversion of forest land for construction of International Cricket Stadium at Tivim. The petitioner *inter-alia* alleges that it is proposed to construct buildings for commercial activities including malls, restaurants, hotels etc. in the proposed forest area. It is requested that the details of activities proposed in the forest land may please be furnished to this office at the earliest along with a sketch of the layout. The parawise comments of the State Government in W.P.No.321/2010 may also be furnished to this office at the earliest to enable this office to finalise the counter affidavit to be filed on behalf of Govt. of India.

Yours faithfully,

(N.S.Murali)
Deputy Conservator of Forests (Central)

Copy to:-

1. The Chief Conservator of Forests, Government of Goa, Forest Department, Panaji (Goa).
2. The Deputy Conservator of Forests (M&E), Govt. of Goa, Forest Department, Panaji (Goa), PIN- 403 001.

(N.S.Murali)
Deputy Conservator of Forests (Central)

DCF (M&E) 25/5/10
Endorsed DyCF(N) to give information

Dy. CONSERVATOR OF FOREST
NORTH GOA DIVISION,
PONDA, GOA.
INWARD No. 1666
PAGE No. 164
DATED 1/6/10

No. 6-TCM-2007-FL/1161
Dated:- 27.5.2010

Copy forwarded to the Dy. Conservator of Forests, North Goa Division, Ponda to give the above information within a week's time.

D.C.F.

167 25/5/10
URGENT

सत्यमेव जयते

त्वरित डाक द्वारा
BY SPEED POST

By Speed Post

भारत सरकार
पर्यावरण एवं वन मंत्रालय

GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
क्षेत्रीय कार्यालय (दक्षिण वलय)
Regional Office (Southern Zone)
Kendriya Sadan, 4th Floor, E&F Wings, 17th Main Road,
2nd Block, Koramangala, Bangalore - 560 034.

No. :
तार : पर्यावरण, बेंगलूर
Telegram : PARYAVARAN
BANGALORE
दूरभाष :
Telephone : 080-25635910
Tele Fax : 080-25537184

No.4-GOB427/2007-BAN/8005
Dated the 30th September, 2010

To

The Secretary (Forests),
Government of Goa,
Secretariat Annexe,
Junta House, 3rd Floor,
Panaji (Goa).

Subject: Diversion of 4.3725 ha. of private forest land for International Cricket Stadium at Tivim in North Goa District, in favour of Director of Sports & Youth Affairs, Goa.

Sir,

In pursuance of the order of the Hon'ble High Court of Bombay at Goa in Writ Petition No.321/2010 dated 12.08.2010, the petitioner, M/s Goa Foundation vide letter dated 14.09.2010 has submitted a representation to this office with a request to withdraw/revoke the approval granted under Forest (Conservation) Act, 1980 for the above project. State Government's reply to representation and the details sought by this office vide letter dated 20.05.2010 may be furnished to this office within a period of one month. It may also be ensured that no work is carried out in the diverted forest land for the above project in the meantime and until further orders.

Yours faithfully,

(N. Anand)
Deputy Conservator of Forests (Central)

Copy to:-

1. The Director General of Forests & Special Secretary to Govt. of India, Ministry of Environment & Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi – 110 003.
2. The Chief Conservator of Forests, Government of Goa, Forest Department, Panaji (Goa).
3. The Deputy Conservator of Forests (M&E), Govt. of Goa, Forest Department, Panaji (Goa), PIN- 403 001.
4. Director, Goa Foundation, G-8, St Britto's Apartments, Feira Alta, Mapusa 403507, Goa.

30.9.10
(N. Anand)
Deputy Conservator of Forests (Central)

IN THE BOMBAY HIGH COURT AT GOA

PIL PETITION NO.14 of 2010

The Goa Foundation)... Petitioners

v/s

Goa Cricket Association and anr)... Respondents

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Panaji 23 December, 2010 Advocate for petitioner

A

IN THE BOMBAY HIGH COURT AT GOA

PIL PETITION NO. of 2010

SYNOPSIS CONSISTING OF CHRONOLOGY OF DATES AND EVENTS

Sr. No	Date	Particulars of events or documents if any	Annexure & Page
1	April 2010	Petitioner files WP No.321/2010 challenging construction of cricket stadium on several grounds	
2	July/August 2010	Respondent association files two affidavits in which it gives an undertaking that no construction will commence in the absence of statutory permissions and forest clearance.	Exhibits 2 and 3 Pages: 20 and 32 respectively
3	12.8.2010	HC disposes of petition with a detailed order and accepts undertakings filed by the Respondent No.1.	Exhibit 1 p.10
4	6.12.2010	Petitioner writes to Forest Department requesting them to withhold permissions	Exhibit 5 p.39

		granted under the Trees Act.	
6	December 2010	125 trees felled. Bulldozers imported to site and work of excavation commences.	Exhibit 4 p.37
7	22.12.2010	Petitioner addresses demand for justice letters to Chief Secretary and Environment Secretary	Exhibit 5 p.41
8	23.12.2010	Writ Petition filed	

POINTS TO BE HEARD

1. This Hon'ble Court passed a detailed order dated 12.8.2010 in Writ Petition No.321/2010 in which it recorded solemn assurances on oath by the Respondent No.1 that it would not commence construction of its project of building an international cricket stadium until it had the necessary clearances.

2. Despite the order, construction has commenced in the absence of statutory clearances. Hence this petition.

ACTS/ RULES TO BE REFERRED

The Forest Conservation Act, 1980

Environment Impact Assessment Notification, 2006

The Goa Town and Country Planning Act, 1974

The Environment Protection Act, 1986 and Rules

AUTHORITIES TO BE CITED

None at the moment

Panaji 23.12.2010

Advocate for petitioner

AMENDED PETITION

IN THE BOMBAY HIGH COURT AT GOA

PIL PETITION NO. of 2010

IN THE MATTER OF ARTICLE 226 OF THE CONSTITUTION OF INDIA
AND
IN THE MATTER OF ARTICLES 21 AND 51G OF THE CONSTITUTION OF INDIA
AND
AND IN THE MATTER OF WORK COMMENCED ON CRICKET STADIUM IN VIOLATION OF UNDERTAKING GIVEN TO THIS COURT

Goa Foundation, a society registered under
the Societies Registration Act, 1960,
through its Secretary, Dr. Claude Alvares,
Addr: Room 7, Above Mapusa Clinic,
Mapusa 403507, Goa
Email id: goafoundation@gmail.com
Tel: 2256479
PAN No: AAAAG0249C)....Petitioner

v/s

1. Goa Cricket Association through)
its Secretary, Rizvi Sadan, IInd Floor,)
Near Municipal Market,)
Panaji, Goa.)

2. State of Goa through Chief)
Secretary, Secretariat, Porvorim, Goa)

3. State of Goa through Conservator
of Forests, Panaji, Goa.)....Respondents

(The above are the registered addresses of parties.)

To

The Hon'ble Chief Justice and Companion Judges,
Bombay High Court at Panaji, Goa

THIS HUMBLE PETITION OF THE PETITIONERS
MOST RESPECTFULLY SHEWETH

Particulars of the Cause Against which PIL is filed

1. This petition is filed to seek enforcement of the judgement and order dated 12.8.2010 passed by this Hon'ble Court in Writ Petition No.321/2010. The said order records undertakings of the Respondent No 1 that they shall commence construction of the stadium project only after obtaining all necessary permissions from the concerned authorities. These undertakings have been violated. Hence petitioner is compelled to file this petition. Petitioner was a petitioner in Writ Petition No.321/2010 as well.

Consequence of violation para 13-B and para 13-D.

Particulars of the Petitioner

2. Petitioner is an environment NGO based in Goa who has approached both this Hon'ble Court and the Hon'ble Supreme Court time and again over the past two decades, in public interest, for enforcement of the provisions of environment and forest laws. Registration certificate and names of office bearers of the Society are annexed to the petitioner's affidavit.

Declaration of Petitioner

3. Petitioner states that this petition is filed by way of public interest and the petitioner does not have any personal interest in the matter.

The PIL is filed in the interests of enforcing solemn undertakings given to this Hon'ble Court by the Respondent No 1.

4. Petitioner states that the entire litigation costs and other charges are being borne by the petitioner organization. Petitioner's advocate has taken up the matter *pro bono*.

5. Petitioner states that a thorough research has been conducted in the matter raised through the petition and all relevant material has been annexed to the petition.

6. Petitioner states that the matter was disposed of by order dated 12.8.2010 in Writ Petition No.321/2010. The present petition is filed for enforcement of the said order in view of violation of the undertakings given by the Respondent No.1 therein.

7. Petitioner has understood that in the course of hearing of this petition the Court may require any security to be furnished towards costs or any other charges and the petitioner shall comply with such requirements.

Facts constituting the cause

8. Writ Petition No.321/2010 was filed to challenge the approval granted by the Ministry of Environment & Forests (MoEF) for diversion of 44,000 sq mts of prime forest at Thivim village for construction of commercial facilities connected with the development of the cricket stadium, proposed to be constructed by the Goa

Cricket Association (Resp. No 1) on the grounds that the approvals granted for diversion of the forest land to non-forestry purpose are not in consonance with the guidelines laid down for implementation of the Act. Petitioners also raised the issue of non-receipt of mandatory environment clearance for the project under the provisions of the Environment Protection Act, 1986 by the Respondent No 1. Petitioners also challenged the approvals to the stadium on the grounds that the land used did not conform to the land use in the Regional Plan 2001.

9. The Respondent No 1 filed two affidavits in the matter. In affidavit dated 8 July 2010, with regard to the issue of Environment Clearance, it was stated (at para 11) that the Goa Cricket Association has engaged the services of M/s Grass Roots Research and Creation India Pvt. Ltd to obtain necessary environment clearances from the concerned authorities for setting up the stadium by Work Order dated 19.05.2010. The affidavit also gave (at para 13) a solemn undertaking to the Hon'ble Court that they shall commence construction of the proposed project in the acquired land in stages and after obtaining all the necessary permissions from the concerned authorities. It was also stated that presently no construction had commenced in the acquired land.

10. In its additional affidavit dated 4th August 2010, the Respondent No 1 once again repeated (at para 8) its undertaking that it shall commence construction works in the acquired land in

stages and after obtaining all necessary permissions from the concerned authorities.

11. On 12th August 2010 this Hon'ble Court disposed of W.P 310/2010 recording in its order the Court's acceptance of the aforestated undertakings of the Respondent No 1.

12. To the best of the Petitioner's knowledge the Respondent No. 1 has not obtained Environment Clearance till date. Petitioner has made oral enquiries with the authorities from time to time in this regard.

13. However, petitioner has recently learnt that in the second week of December 2010, Respondent No.1 has commenced construction of Phase I of the stadium. As per press reports, some 125 trees have been felled in the non-forest area of the plot and excavators and trucks have begun to excavate the land for purposes of construction of the stadium. Press statements made by the President of the Respondent No.1 about commencement of work and felling of trees are enclosed with this petition.

13-A. On 26.11.2010, Government of Goa (resp.No.2) granted approval for felling of 125 trees on the impugned plot but outside the forest area under the Goa Trees Act, 1984. As the number of trees was more than ten, it appears the Forest Department sought approval from the Government as per rules in force. The permission was conveyed to the Respondent No.1 through the Resp.No.3. The permission was issued in the form of an NOC dated 2.12.2010 to the Respondent No.1 and in fact required the Respondent No.1 to

deposit the revenue from the disposal of the forest produce into the coffers of the Respondent No 2 as the State Government owns the land. The permission granted was unconditional, in so far as it did not bind the Respondent No.1 to the order of this Hon'ble Court dated 12.8.2010 passed in W.P 321/2010. Petitioner submits that the Respondent Nos.2 & 3 being also respondents in W.P. No 321/2010 were aware of the order dated 12.8.2010 and duty bound to obey the same. Being statutory authorities it is also their responsibility to ensure that their acts of omission / commission do not in any manner facilitate disobedience of the order.

13-B. Petitioners therefore submit that the NOCs dated 26.11.2010 and 2.12.2010 are liable to be challenged on the ground that they have been issued without application of mind and in violation of the orders of this Hon'ble Court and undertakings given to it on this explicit matter in the past. The felling permission and the consequent activity at site were also in violation of the provisions of the EIA Notification 2006 issued under the provisions of the Environment Protection Act, 1986. I am annexing at ***Exhibit 6***, copy of letter dated 19.5.2010 issued by the Respondent No.1 to the project consultant for procuring environment clearance. In the letter it is clearly stated that the environment clearance is to be sought "in respect of setting up of our stadium project of 1.3 lac.sq.mts at Goa" (which includes the area open to the sky). I am annexing to this petition copy of the order of this Hon'ble Court dated 25.1.1999 in W.P. No 420/1998 (*Goa Foundation v/s Teksid Kalyani Iron Foundry Ltd*) in which the

13 B — Violation of EIA Notif - permission unconditional
— Violation of assurance — Teksid Kalyani pg 42 C

State of Goa gave a solemn assurance to this Court that "all concerned authorities would be instructed within a week that no construction work, preliminary or otherwise, relating to the setting up of a project shall be allowed till the Environment Clearance is obtained." Copy of the order dated 25.1.1999 is at ***Exhibit 7***.

13-C. It appears that only after the petitioner on 6.12.2010 wrote a precaution letter to the Respondent No.3's officer drawing his attention to this Court's order dated 12.8.2010, that on the very next day a letter came to be written by the Respondent No.3 to the Respondent No.1 imposing a condition that the tree felling permission is accorded "subject to the compliance of the orders of this Hon'ble Court dated 8.9.2010 in Writ Petition No.321/2010 by Resp No.1 who shall be solely responsible for the compliance thereof." Copy of letter dated 7.12.2011 is annexed hereto as ***Exhibit 8***.

13-D. Petitioner submits that at least after petitioner drew the attention of the authorities to the EIA Notification and the undertaking given by Resp No 1, the Resp Nos 2 and 3 ought to have immediately withdrawn the approval to fell the trees or put them on hold and thereby ensured that there was neither occasion for violation of law or of this Hon'ble Court's orders. Despite the letter from Resp. No 3, the Respondent No.1 proceeded with the violation of its undertaking to this Hon'ble Court and violation of the provisions of the EIA Notification. A fresh cause of action has arisen compelling

the petitioner to approach this Hon'ble Court to uphold the rule of law.

Source of Information

14. Petitioner's Secretary was informed by some villagers on phone while out of station that many trees have been felled and that several bulldozers are at the site and are excavating the land. Petitioner's Secretary has thereafter visited the site and found large scale excavation work being conducted at the site with the aid of five excavators and trucks with private security. Petitioner has been informed by the villagers that work is going on day and night. Information about the number of trees felled is from the media.

Nature and extent of Injury caused / apprehended

15. A solemn undertaken given to this Hon'ble Court must be adhered to by the Respondent No.1 if the rule of law is to be maintained. This Court's orders must be respected. Order passed in Writ Petition No.321/2010 which redressed the grievances raised by the petitioner has been flouted. It is imperative that the work on the site must be halted. Hence this petition. The actions of the Respondent are totally in contempt of court. This Hon'ble Court may also be pleased to issue notice of contempt to the Respondent No 1.

16. Petitioners are therefore approaching this Hon'ble Court on the following grounds, among others:

a) Order dated 12.8.2010 in Writ Petition No.321/2010 accepts the statements and undertakings of the Resp.No.1 in their affidavits while disposing off the petition.

b) The said affidavits state that no work will commence on the impugned plot till the permissions required are obtained.

c) Petitioner has ascertained that no environment clearance has yet been obtained by the Resp.No.1. No construction license has been obtained from the Panchayat.

d) Petitioner has ascertained that the issue of forest clearance granted earlier to the State Government is still under the consideration of the Ministry of Environment. Hence, no development may commence in the non-forest area till the clearance for the forest portion is obtained, as per the Forest Conservation rules and guidelines. By letter dated 3.2.2011 addressed by the Ministry of Environment & Forests, Bangalore Regional Office, to the Secretary (Forests), Govt of Goa, the Ministry has conveyed the decision of the Ministry to keep the forest clearance earlier granted to the Director of Sports "in abeyance" till a decision is taken on the representation of the Goa Foundation. Therefore, as of 3.2.2011, the project no longer possesses forest clearance as the clearance has been put on hold. Annexed hereto at ***Exhibit 9*** is a copy of the letter of the MoEF dated 3.2.2011 and at ***Exhibit 10*** is the relevant extract from the Forest Conservation Guidelines of

the MoEF applicable to projects involving forest and non-forest land.

Representations made

17. Petitioner has written to the Forest Department on 6.12.2010 to ensure that no trees are felled till environment clearance has been obtained for the project. It has also addressed communications on 22.12.2010 to the Chief Secretary and to the Secretary (Environment).

Delay, if any in filing the petition

18. There is no delay in filing of this petition as the work on the stadium has commenced with the felling of trees in the second week of December 2010. Petitioner's Secretary was out of station during the past two weeks and although telephonically informed of these developments by the villagers he has been able to act on the same only on his return on 21.12.2010.

Documents relied upon

19. Petitioners rely on the following documents:

i) Judgement dated 12.8.2010 in Writ Petition No.321/2010 (Exhibit 1).

ii) Affidavit dated 8.7.2010 filed by the Respondent No.1 in Writ Petition No.321/2010 (Exhibit 2).

iii) Affidavit dated 4.8.2010 filed by the Respondent No.1 in Writ Petition No.321/2010 (Exhibit 3).

iv) Copies of press statements made by the Respondent No.1 (Exhibit 4).

v) Copies of representations made to the Forest Department, Chief Secretary and the Secretary (Environment) (Exhibit 5).

Reliefs prayed for:

20. Prayers:

i) For a writ or order in the nature of a writ directing the Respondents No.1, 2 and 3 to restore the land to its original status.

ia) For a writ or order in the nature of a writ quashing and setting aside the forest NOCs dated 26.11.2010 and 2.12.2010.

ii) For costs of this petition.

Interim Orders prayed for:

iii) Pending hearing and final disposal of this petition, for an order of temporary injunction staying all work on the impugned plot/project at site at Thivim.

iv) Pending hearing and final disposal of this petition, for issue of notice of contempt against the Respondent No.1

v) Ad-interim, ex-parte relief in terms of prayer clause (iii)

vi) Any other reliefs this Hon'ble Court may be pleased to grant.

Caveat

21. Petitioner states that no caveat has been received of lodging a caveat by the opposite party.

Place: Panaji

Dated the 23 day of December 2010

Petitioner

Advocate for Petitioner

Exhibit 1 10

IN THE HIGH COURT OF BOMBAY AT GOA.

Writ Petition NO. 321 OF 2010.

Goa Foundation and 3 others .....Petitioners.

Versus

Ministry of Environment and Forests
Government of India, through Chief
Conservator of Forest .....Respondents.

Ms. Norma Alvares Advocate for the petitioner.

Mr. C. A. Ferreira, Assistant Solicitor General for respondent no.1.

Mr. S. Dessai, Senior Advocate with Mr. S. Naik, Advocate for respondent no. 2.

Mr. S. S. Kantak, Advocate General, with Mr. P. Talaulikar, Additional Government Advocate for respondent no. 3 to 8.

Mr. P. H. Parab, Advocate for respondent no.9.

Coram:- A. S. OKA &
F. M. REIS, JJ.

Date:- 12th August, 2010.

P.C.

We have heard learned Counsel appearing for the Petitioners. We have heard learned Advocate General appearing for the State Government. We have heard learned Senior Counsel appearing for the second respondent. We have also heard learned Counsel appearing for the ninth respondent and learned Assistant

Solicitor General of India for the first respondent.

2. The petitioners claim to have filed this petition in public Interest. The challenge in this petition is in substance to the Order of the Ministry of Environment and Forests of the Union of India to the Orders dated 30th November, 2007 and 23rd October, 2008 permitting diversion of 4.3725 hectares of forest land for enabling construction of International Cricket Stadium at Tivim Village of Bardez Taluka.

3. With a view to appreciate the submissions made, it is necessary to the challenge in the Writ petition. An acquisition of a large area of land was made under the provisions of Land Acquisition Act, 1894 for construction of an International Cricket Stadium. The Deputy Conservator of Forests of the Ministry of Environment and Forest, Government of India issued a communication dated 30th November, 2007 recording approval for diversion of 4.3725 hectares of private forest land at Tivim in North Goa District for facilitating construction of International Cricket Stadium in favour of the Director of Sport and Youth Affairs, Directorate of Sports and Youth Affairs of State of Goa. Various conditions were imposed in the said communication. The stage II approval for diversion of the forest land

for the aforesaid purposes was communicated by a letter dated 23rd October, 2008. Various terms and conditions have been incorporated in the said letter. The main condition was that the identified equivalent non-forest land proposed for compensatory afforestation shall be transferred and mutated in favour of State Forest Department. Further condition requires that the user agency shall deposit the net present value of the diverted private forest land.

4. There are various challenges in this petition. Learned Counsel appearing for the petitioners pointed out that now the affidavits filed by the respondents reveal that the user agency is not the Directorate of Sports and Youth Affairs of Government of Goa but now the user agency will be the second respondent Goa Cricket Association. The learned Counsel invited our attention to the Lease Deed dated 11th February, 2010 executed by the Government of Goa in favour of the Goa Cricket Association. The learned Counsel relied upon Forest (Conservation) Rules, 2003. The learned Counsel submitted that there is no prior permission obtained of the Union of India for creating a lease of the forest land in favour of second respondent. She pointed out that when the impugned clearances were granted by the Central Government, the State Government had not

made the Central Government aware of the fact that user agency will be the second respondent. She invited attention of the Court to the various terms and conditions incorporated in the Lease Deed and pointed out that many terms and conditions are contrary to the conditions imposed in the stage I and stage II clearances. She pointed out that the second respondent has been permitted to sublet, mortgage or transfer the land for any commercial usé to any third party for raising resources for completion of the project. She pointed out that the second respondent has been permitted to construct commercial, residential facilities for their players, guests, staff, general public etc on the forest land. She submitted that the terms and conditions on the Lease are clearly contrary to the conditions imposed by the Central Government. She invited our attention to the communication dated 20th May, 2010 issued by the Deputy Conservator of Forests(Central), Ministry of Environment and Forests of the Government of India. She pointed out that by the said communication, the Government of Goa has been called upon to furnish certain information. She pointed out that the said communication requested the Goa Government to furnish the details of activities proposed on the forest land for construction of International Cricket Stadium at Tivim. She pointed out that there is

a proposal for construction of buildings on the forest land for commercial activities including malls, restaurants, hotels etc. She submitted that the communication shows that the Government of India is looking into grievances raised in the petition. She pointed out that no part of the forest land can be used by the State Government or any one else for any purpose except for construction of cricket stadium. Inviting our attention to the additional affidavit of the second respondent, she stated that the second respondent has not even admitted that a part of land acquired constitutes forest area. She invited our attention to the other challenge which is reflected from paragraphs 5 to 7 of the petition. The contention raised is that acquisition itself is contrary to the provisions of the regional plan. Learned counsel pointed out that according to the petitioners, the fourth respondent has moved a proposal to exempt acquired land from the operation of the regional plan by invoking the provisions of section 16 and 16A of Town and Country Planning Authority, 1979. She stated at present the petitioners are not pressing the challenge, as respondents have not placed on record any order passed on application for exemption.

5. We have also heard learned Advocate general, learned

Senior Counsel on behalf of the second respondent. Learned senior counsel for the second respondent has invited our attention to the affidavit-in-reply as well as additional affidavit. The submission of learned Advocate General and learned Senior Counsel for the second respondent in short is that there are no illegalities.

6. It will be necessary to consider the undertaking recorded by the second respondent in their first reply in paragraph 13 which reads thus:-

> "The Goa Cricket Association undertakes to this Honourable Court that they shall commence construction of the proposed project in the acquired land in stages and after obtaining all necessary permissions from all the concerned authorities. Presently no construction in the acquired land is commenced."

Refer para 8 of addl aff pg 16

There is an additional affidavit filed by the second respondent. In paragraphs 2 and 3 of the said affidavit which reads thus:-

> "A part of the remaining forest area shall be used for ground parking and practice pitches. The remaining part of the forest area shall be utilised for a club house project comprising rooms for accommodating outstation players, guests, official

connected with the game of cricket and Goa Cricket Association. In this area, there will be swimming pool, a gymnasium, health club, game rooms, etc. There will be also in-house restaurant/ cafeteria."

"No part of the forest area shall be utilised for constructing malls, hotels or any type of commercial project."

7. It is pointed out in the affidavits that the conditions contained in the impugned approvals have been duly complied with and the identified equivalent non-forest land proposed for compensatory afforestation has been transferred and mutated in favour of the State Forest Department. It is contended that conditions incorporated in the approval dated 30th November, 2007 are complied with and there is a substantial compliance of impugned approval dated 28th October, 2008. In paragraph 8 of the additional affidavit, the second respondent has stated thus:-

"Goa Cricket Association shall commence construction works in the acquired land in stages and after obtaining all necessary permission from all the concerned authorities."

8. In paragraph 10 of the additional affidavit it is stated by the second respondent that the Directorate of Sports by

communication dated 16th July, 2010 requested the second respondent to submit the details of the activities proposed by them in forest area in the background of the present petition.

9. From the affidavits filed by the second respondent it is very clear that without obtaining necessary clearances and permissions, second respondent is not going to proceed with the work of construction. There is an undertaking recorded in paragraphs 3 that no part of the forest area shall be utilised for constructing malls, hotels or any type of commercial project. We accept all the aforesaid statements and undertakings in the affidavits of the second respondents.

EIA Consultant
EC to be obtained

10. Perusal of the communication dated 20th May, 2010 issued by the Deputy Conservator of Forests(Central) of the Ministry of Environment and Forests of Government of India shows that all the aspects are being be considered by the Ministry of Environment and Forests.

11. All the aforesaid objections raised by the petitioners are bound to be considered by the Ministry of Environment and Forests of

the first respondent. It will be always open for the petitioners to make a representation to the Ministry raising contentions which are raised in this petition.

12. Affidavits filed by the second respondent clearly records that construction work shall be commenced only after obtaining all the necessary permissions and clearances. As construction is not likely to be commenced before obtaining all the permissions and clearances, we will have to direct that till such permissions and clearances are obtained, the second respondent shall not proceed with cutting of trees on the forest land. This is the only clearance the project had. - Petition not say violation of EC - FC was there

13. Considering the aforesaid discussion, it is not necessary to keep the petition pending and we dispose of the petition by passing following order:-

i. We accept the statement made by the learned Counsel appearing for the petitioners that challenge incorporated in paragraphs 5 to 7 of petition is not pressed at this stage. It will be open for the petitioners to raise the said contentions at the appropriate stage in appropriate proceedings.

ii. It will be open for the petitioners to make a representation to the first respondent raising all the grievances which are made in this petition. First respondent shall deal with the representation as expeditiously as possible.

iii. We accept the statements and undertakings of the second respondent in their affidavits.

iv. We direct that till second respondent obtains all clearances and permissions for commencing the work of construction, no steps shall be taken to cut the trees on the forest land.

FC has obtained

v. Petition is disposed of in above terms.

vi. Parties to act on the authenticated copy.

1) Direction not to cut trees in forest land - permission to cut trees issued

A. S. OKA, J.

2) Since undertaking given as regards other issues esp EC — no direction necessary.

F. M. REIS, J.

vn*

IN THE HIGH COURT OF BOMBAY AT GOA.

Writ Petition No. 321/10

The Goa Foundation & Ors. .. Petitioners

Versus

Ministry of Environment &
Forests & Ors. .. Respondents

AFFIDAVIT IN REPLY OF THE RESPONDENT NO. 2

I, Prasad Vinayak Phatarpekar, son of Vinayak Phatarpekar, 44 years old, Indian National, married, r/o H. No. 973, 'Yeshwanti', Alto Torda, Salvador de Mundo, Bardez, Goa, Hon. Secretary of the Respondent No. 2 above named (herein after referred to as 'Goa Cricket Association'), have read and understood the contents of the above Writ Petition and the annexures filed thereto and on behalf of the Respondent No. 2 above named state and submit that:

1. The petition is filed with ulterior motives and not in public interest. There is no wildlife in the alleged forest area nor can the area strictly be called a thick forest. Question of protection of the forest and wildlife therefore would not arise. No public interest is involved in the

petition and proposed public interest is a private interest. The Petitioner Nos. 2, 3 and 4 were tenants or were claiming interest in the acquired land. The Petitioner No. 1 is an NGO and has filed several Public Interest Litigations petitions before this Honourable Court, upon which Goa Cricket Association shall rely and craves leave to refer to, rely upon and produce at the time of hearing.

2. At the outset I specifically deny each and every statement, averments and submissions made in the petition, unless specifically admitted in writing and all such singular and specific denials be deemed to have been incorporated in this affidavit. I am filing this affidavit in order to oppose admission and/or grant of interim relief prayed for by the Petitioners. I crave leave to file a detailed affidavit if necessary later and in the event this Honourable Court is pleased to Admit the petition and/or grant interim relief.

3. The Goa Cricket Association is a Society registered under the Societies Registration Act under No. 585 on 27.07.1976. The Society has been constituted with a primary object of promoting the game of cricket in the State of Goa and hold cricket league tournaments at State and National level. The Goa Cricket Association also is affiliated to the Board of Cricket Control in India (BCCI), which organizes National and International cricket tournaments in India and promotes the game of cricket in all respects

and aspects of the game. Under the auspices of Goa Cricket Association, One Day Internationals (ODI) matches were held in Goa at Pt. Jawaharlal Nehru Stadium, at Fatorda, which is essentially a football stadium, having a capacity of 25,000. The Goa Cricket Association also conducts coaching camps for budding cricketers in Goa and also trains Cricket Coaches, Umpires, Scorers, under the auspices of BCCI. Annexed as **Exhibit R-1** are Byelaws of the Goa Cricket Association.

4. There is no regular, proper, large stadium of International standards in Goa. The Directorate of Sports & Youth Affairs of the Government of Goa therefore thought of acquiring land for construction of International Cricket Stadium under the provisions of the Land Acquisition Act, 1894, considering that cricket was gradually gaining popularity in Goa and Goan teams were ferrying well in Zonal tournaments at National level the Directorate thought of having a Cricket Stadium of International standards so that Goa can host National and International cricket tournaments and selected a centrally located site close to Mapusa city and also near to Sirsaim Railway Station accessible to all the Goans and to that effect Notification was issued by the Government of Goa u/s 4 of the Land Acquisition Act, 1894 on 21.04.2006. An Addendum thereto was issued on 25.08.2006.

5. After holding Section 5A inquiry, declaration came to be made u/s 6 of the Land Acquisition Act on 18.09.2006 acquiring 1,30,328 sq. mts. of land from Survey Nos. 404 (p), 403/1(p), 405(p), 408(p), 431/1(p), 431/2(p), 431/3, 431/4, 431/5, 431/6, 431/7, 431/8, 431/9, 431/10, 431/11, 431/12, 431/13, 431/14, 431/15, 431/16, 431/17, 431/18, 431/19, 431/20, 431/21, 431/22, 431/23, 431/24, 431/25, 431/26, 431/27, 431/28, 431/29, 431/30(p), 432/1(p), 432/2(p), 432/3(p), 432/4(p), 432/5(p), 432/6(p), 432/7(p), 432/8(p), 432/9(p), 432/10(p), 432/11(p), 432/12(p), 432/13(p), 432/14(p), 432/15(p), 432/16(p), 432/17(p), 432/18(p), 432/19(p), 432/20(p), 430/1-A, 430/1-A12, 431/A-1-B and 431 of village Tivim, Bardez, Goa. Annexed as **Exhibit R-2** is the Survey Plan of the acquired properties showing the acquired portion in Black contours. The acquired properties as described above are herein after referred to as 'the acquired land'.

6. After the Award was made on 18.01.2007, determining compensation for the acquired land, its possession was taken on or around 2.02.2007.

7. Goa Cricket Association had time and again approached the Government of Goa for acquiring land for having an International standard Cricket Stadium in Goa taking the responsibility of constructing such a stadium and making all other ancillary facilities available by raising

necessary finances. The proposal of the Goa Cricket Association was considered by the Government of Goa and by Lease dated 11.02.2010, annexed as **Exhibit R-3** the acquired land has been leased unto Goa Cricket Association for a period of 99 years for construction of International Cricket Stadium and other facilities and on terms and conditions stated therein. On the date of the Lease Deed, the acquired land was handed over to the Goa Cricket Association by the Directorate of Sports & Youth Affairs.

8. Upon assurance of the Government of Goa that the acquired land will be leased to Goa Cricket Association, the Association entered into an Agreement dated 25.01.2010 and has engaged the services of Uday Joshi & Associates, having office at 112, Vasant Udyog Bhawan, Lower Parel, Mumbai, to provide architectural services for the proposed project in the acquired land such as architectural design services, structural design services, electrical design services, HVAC design services, PHE & fire design services, interior design services, etc. annexed as **Exhibit R-4** is the Agreement dated 25.01.2010.

9. By Project Management Agreement dated 22.06.2010, annexed as **Exhibit R-5**, M/s. Vijaykumar Sawant Associates have agreed to supervise the proposed project in the acquired land, and who are presently involved in coordination and tendering of the proposed project.

10. The acquired land is 1,30,328 sq. mts. out of which the alleged forest area is 43,725 sq. mts. The main Cricket Stadium is proposed not in the forest area but in the area of 86,603 sq. mts. falling outside the forest area. The forest area is proposed to be used for infrastructure development such as additional open car parking, recreational works, practicing pitches and additional utilities and amenities.* The proposed Stadium will have a total sitting capacity of 44,958 persons. Annexed as **Exhibit R-6** is the report on proposed construction of International Cricket Stadium in the acquired land.

11. The Goa Cricket Association has also engaged the services of M/s. Grass Roots Research & Creation India Pvt. Ltd. to obtain necessary environmental clearances from the concerned authorities for setting up the Stadium in the acquired land, annexed as **Exhibit R-7** is the Work Order dated 19.05.2010.

12. The Goa Cricket Association has applied to the Village Panchayat of Tivim for construction license submitting therewith plans of the proposed construction as required under law. The plans have been submitted on the line of the plans annexed to the project report (Exhibit R-6 above). The Goa Cricket Association craves leave to refer to, rely upon and produce at the time of hearing plans

submitted to the local Panchayat, which have not been annexed presently in order to avoid voluminous record.

13. The Goa Cricket Association undertakes to this Honourable Court that they shall commence construction of the proposed project in the acquired land in stages and after obtaining all necessary permissions from all the concerned authorities. Presently no construction in the acquired land is commenced.

14. Gram Sabha resolutions annexed to the petition are masterminded by the Petitioners. The Petitioner Nos. 2 to 4 are from the village. They are not happy that their lands have been acquired. At their instance the Gram Sabha resolutions dated 1.02.2009 have been passed. Tivim village has a population of 10,000 persons approximately. The Gram Sabha resolution is passed by only 21 of them.

15. I deny that the Goa Cricket Association has been masterminding and manipulating behind the scenes all the procedures for take over of the land, as alleged. The alleged forest area was a private forest and was identified as a private forest because there are some forest trees. Forest Clearance Orders dated 30.11.2007 and 20.10.2008 have been correctly made. The acquired land has been rightly leased to the Association in public interest and in the interest of the game of cricket in Goa. There are no serious

improprieties in the Association taking over the acquired land, which has been validly leased to the Association.

16. The approvals granted by the Respondent No. 1 for diversion of 43,725 sq. mts. of the forest land are valid and are in consonance with the guidelines laid down under law. The report given by the Respondent No. 3 is a proper report. There are little over 2500 forest trees in the forest area spreading over 43,725 sq. mts. The forest area is not a prime forest. The Respondent No. 3 in his report has given accurate picture as required under law.

17. I deny that the land for compensatory afforestation has been fraudulently transferred to the Forest Department on the basis of questionable procedures.

18. The Goa Cricket Association has already engaged services of M/s. Grass Roots Research & Creation India Pvt. Ltd. for obtaining all environmental clearance including the mandatory one under the Environment Protection Act, 1986.

EC

19. The project report (Exhibit R-6 above) does not show that it is proposed to construct a whole range of buildings for commercial activities including malls, restaurants, etc. For such a huge project of international standards some incidental facilities such as restaurants, cafeteria, residential rooms for players, etc. are necessary.

Also
Pg 89
Pg
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20. The acquired land is not eco sensitive zone, as alleged. By application dated 2.03.2010, annexed as **Exhibit R-8** the Association requested permission for mud filling of part of the acquired land for starting the work of cricket field. By reply dated 16.04.2010, annexed as **Exhibit R-9** the Chief Town Planner has conveyed that the acquired land does not attract the provisions of Sec. 17A of the Town & Country Planning Act, 1974.

21. I deny that the entire acquisition has been masterminded by the Goa Cricket Association or Shri Dayanand Narvekar, who is the sitting MLA of Goa Legislative Assembly and was a Minister till sometime ago. The alleged ticket scam case is subjudice before the competent Judicial Magistrate First Class. I deny that for India – Australia ODI in Goa held on 6.04.2001, any extra tickets were printed by the office bearers of the Association for the purpose of profiteering and that such tickets were sold to unsuspecting public resulting in chaos and violence.

22. Shri Dayanand Narvekar is the present President of Goa Cricket Association. He himself has been an ardent cricketer and lover of sports. In public interest and in the interest of the game of Cricket in Goa and in order to see that Goa has a Cricket Stadium of International standards, he has corresponded with the Government of Goa in his capacity as the President of the Goa Cricket Association.

23. The Government of Goa has obtained all necessary clearances from the competent authorities before the acquired land was handed over to the Goa Cricket Association in order to facilitate construction of the proposed project in the acquired land. The lease has been granted to the Association by the Government in consideration of Rs. 1,03,68,915/- already paid by the Association to the Government and on terms and conditions as mentioned in the Lease Deed.

24. I dispute the contents of the note, annexure 8 to the petition and put the Petitioners to the strict proof thereof. I also dispute that Mr. Heinz Lenon is an authority on Bird Life in Goa.

25. I deny that the alleged forest is the harvesting and storage for the ground water of the surrounding villages and there is a threat to the water supplies available to the residents of the surrounding villages if the proposed construction comes up in the alleged forest area. In any event, the compensatory afforestation area will compensate for the apprehensions of the Petitioners although such apprehensions are unfounded.

26. I deny that the Association procured an illegal letter from the Sirsaim Communidade. I shall rely upon true and correct interpretation of the notes annexed to the petition

prepared by Shri Dayanand Narvekar in his Ministerial capacity and his press notes in the background of the fact that he is also a politician.

27. The land belonging to the Respondent No. 9 has been rightly allotted for compensatory afforestation purpose. The connected resolutions taken and referred to by the Petitioners are valid. The land was allotted after following procedure established by the Code of Communidades or law.

28. The Goa Cricket Association shall obtain the Environment Clearance under the Environment Protection Act if such a clearance is necessary. The Association will also set up necessary pollution control infrastructure, if necessary.

29. The intended project in the acquired land is estimated to cost Rs. 161 Crores or thereabout. This amount will be raised by the Association from its own kitty from subsidy by BCCI, from Corporate Boxes, at the stadium, etc. The Association has presently about Rs. 20 Crores in its kitty earmarked for the project. The remaining amount will be raised by the Association for the project.

30. The alleged forest is not a dense forest and is not one of the green lungs of the adjoining city nor is a part of a much larger forest. Felling trees from the alleged forest

area, will not lead to degradation of the remaining forest area. The apprehensions of green house gases are highly misplaced. None of the grounds taken in the petition is maintainable, sustainable or available to the Petitioners.

I pray that the petition be dismissed and/or interim relief be rejected.

31. I say that all that is stated in paras 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15(p), 16(p), 17, 18, 19, 20, 21, 22, 23, 24, 25, 26, 28, 29 and 30 are true to my own knowledge as the same is based on the records maintained by Goa Cricket Association and the contents of paras 15(p), 16(p), 27 are submissions, based on the legal advice, which I believe to be true.

Solemnly affirmed at Panaji on this 8th day of July, 2010.

Deponent.

Identified by me:

Exhibit 3 . 32

IN THE HIGH COURT OF BOMBAY AT GOA.

Writ Petition No. 321/10

The Goa Foundation & Ors. .. Petitioners

Versus

Ministry of Environment & Forests & Ors. .. Respondents

ADDITIONAL AFFIDAVIT ON BEHALF OF THE RESPONDENT NO. 2

I, Prasad Vinayak Phatarpekar, son of Vinayak Phatarpekar, 44 years old, Indian National, married, r/o H. No. 973, 'Yeshwanti', Alto Torda, Salvador de Mundo, Bardez, Goa, Hon. Secretary of the Respondent No. 2 above named (herein after referred to as 'Goa Cricket Association'), on behalf of the Respondent No. 2 above named state and submit that:

1. The acquired land is 1,30,328 sq. mts. out of which the alleged forest area is 43,725 sq. mts. The main cricket stadium is proposed not in the forest area but in the area of 86,603 sq. mts. However, 10 mts. wide stadium structure of the main stadium falls in the forest area along with the

10 mts. wide service ring road as shown in the drawing annexed hereto as **Exhibit R-9.**

2. A part of the remaining forest area shall be used for ground parking and practice pitches. The remaining part of the forest area shall be utilized for a club house project comprising rooms for accommodating outstation players, guests, officials connected with the game of cricket and Goa Cricket Association. In this area, there will be a swimming pool, a gymnasium, health club, game rooms, etc. There will be also in-house restaurant/cafeteria.

3. No part of the forest area shall be utilized for constructing malls, hotels or any type of commercial project.

4. Conditions contained in the impugned approval dated 30.11.2007 have been duly complied with. The identified equivalent non-forest land proposed for compensatory afforestation has been transferred and mutated in favour of the State Forest Department. The cost of raising compensatory afforestation over the equivalent non-forest land has been deposited by the Directorate of Sports & Youth Affairs. The Directorate has deposited the net present value of the diverted forest land measuring 4.3725 ha. with the State Forest Department as per the Orders of the Honourable Supreme Court dated 30.10.2002 and 1.08.2003. The funds received from the Directorate of

Sports & Youth Affairs towards compensatory afforestation and net present value has been transferred to ad-hoc C.A.M.P.A. in Account No. C.A. -1600 of Corporation Bank, Block II, CGO Complex, Lodhi Road, New Delhi.

5. After conditions as mentioned in the impugned Order dated 30.11.2007 were complied with, in principle, impugned final approval dated 23.10.2008 has been issued by the Ministry of Environment & Forests.

6. Conditions contained in the impugned approval dated 23.10.2008 have also been substantially complied with. Compensatory afforestation has been raised in the identified non-forest land at the cost of the Directorate of Sports after obtaining prior permission of the Central Government for change of location and schedule of compensatory afforestation. Non-forest land for compensatory afforestation has been notified by the State Government within a period of six months and necessary compliance report has been made. The funds received from the Directorate of Sports have been transferred to the Ad-hoc account in New Delhi.

7. The Goa Cricket Association has already engaged the services of M/s. Grass Roots Research and Creation (India) Pvt. Ltd. to obtain necessary environmental clearances from the concerned authorities for setting up the project. The Goa Cricket Association has also entered into an Agreement

EC

with Uday Joshi & Associates to provide architectural services for the proposed project in the acquired area such as architectural design services, structural design services, electrical design services, HVAC design services, PHE and fire design services, interior design services, etc. Project Management Agreement has also been entered into with M/s. Vijaykumar Sawant Associates, who will supervise the project.

8. Goa Cricket Association shall commence construction works in the acquired land in stages and after obtaining all necessary permissions from all the concerned authorities.

EC

9. The intended project is estimated to cost Rs. 161 crores or thereabout. The required amount will be raised by the Association from its own kitty, from subsidy by BCCI, from Corporate boxes at the stadium. Presently the Association has Rs. 20 crores in its kitty earmarked for the project.

10. By communication dated 16.07.2010, annexed hereto as **Exhibit R-10** the Directorate of Sports, Government of Goa requested Goa Cricket Association to submit the details of activities proposed by them in the forest area in the background of the present petition and the statements made therein by the Petitioner as far as forest area is concerned and in the background of the communication dated 7.06.2010 addressed to the Directorate by the Dy.

Conservator of Forests, annexed as **Exhibit R-11** enclosing therewith the letter dated 20.05.2010 addressed by the Dy. Conservator of Forests, Central to the State Secretary of Forests referred to by the Petitioner and annexed to the affidavit dated 3.08.2010. In reply thereto, the Goa Cricket Association has forwarded details of the activities to be undertaken in the forest area vide reply dated 2.08.2010 annexing therewith the plan, annexed as **Exhibit R-12 colly.**

10. I say that all that is stated in paras 1, 2, 3, 7, 8, 9 and 12 are true to my own knowledge as the same is based on the records maintained by Goa Cricket Association and the contents of paras 4, 5 and 6 are based on the information received, which I believe to be true.

Solemnly affirmed at Panaji on this 4th day of August, 2010.

Deponent.

NOTARY GOCULDAS N. NAIK PANAJI-GOA Reg. No. 54/93 GOVT OF GOA (INDIA) NOTARIAL NOTARIAL NOTARIAL NOTARIAL

SOLEMNLY AFFIRMED AND VERIFIED BEFORE ME WHO IS IDENTIFIED TO ME BY ... WHOM I KNOW SERIAL No. 3870/10 DATED 04/08/10

04/8/2010

GOCULDAS N. NAIK
NOTARY AT PANAJI
STATE OF GOA - INDIA

Exhibit 4 37

HERALD - 14 DECEMBER. Pg 14

GCA starts Tivim stadia work

The work will be done in stages. The GCA has completed the work of cutting of trees in two days and there was no opposition whatsoever from anybody which means that the people are interested in the upcoming stadium.
-- Dayanand Narvekar.

HERALD CORRESPONDENT
PORVORIM, DEC 13

The work of the International cricket stadium with a 45,000 seating capacity has begun at Tivim.

The Goa Cricket Association (GCA) cut around 125 trees located on 90,000 square meters of land and the site office has been opened.

While briefing the press at Porvorim, President of Goa Cricket Association, Dayanand Narvekar stated that as per the undertaking given in the Affidivit by GCA to the High Court, the work will be done in stages. The GCA has completed the work of cutting of trees in two days and there was no opposition whatsoever from anybody which means that the people are interested in the upcoming stadium.

"The work of excavation of about 11,000 cubic meters of land upto 1 ft deep will start from December 15. No permission is required from the Town and Country Planning Department if the digging is done for less than 1 meter. A letter to this effect has been issued by TCP to GCA. The GCA wants to make the stadium ready within two years," said Narvekar.

Narvekar further mentioned that the stadium will be environmental friendly. The solar energy equipments will be installed to take care of the requirement of electricity for the stadium and the drainage will be underground. The grass required for the ground will be imported from Mysore and the special mud required for the pitch will be brought from South India.

"The entire work of the ground which has been estimated to the tune of Rs 5 crore, will be outsourced to the respective agencies. The practice pitches will be made outside the cricket stadium."

"A 50 room guest house for the players will also be constructed. As per the undertaking given to the High Court, no trees outside the area of the stadium will be cut unless clearance from the Central government is received," claimed Narvekar.

In regard to GPL matches, Narvekar stated that the GCA has received a good response from the six franchises and the turnover of the entire GPL would be more than Rs 1.5 crore. The GCA is expecting a good crowd of around 10-15,000 people for GPL matches for nine days. There will be tickets of Rs 100 per day for two matches and the seating arrangement will be done in two sheds which will be constructed of M S steel.

"In the pavilion too, a seating arrangement for 200 people will be made for which tickets will cost Rs 500 per day which would include cost of snack also. Beer will also be sold in the indoor cricket stadium. Vijaya Bank has sponsored the prize money of Rs 5 lakh," concluded Narvekar.

cricket stadium

TIMES NEWS NETWORK

Panaji: A Tivim villager stated that Goa Cricket Association counsel had assured a division bench of the high court comprising Justices A S Oka and F M Reis on August 2, 2010 that no trees would be touched within the forest area.He also added that GCA had assured that no work would be done outside the forest area.

While confirming that the commencement of the first phase of work, GCA president Dayanand Narvekar said a site office with security guards has been opened. If all goes well, a playable ground at the cost of ₹ 5 crore would be ready for hosting Ranji matches by May 2011, he added.

Narvekar claimed that there was no opposition from Tivim villagers and thanked them for supporting the cause of sports. "Some people of this area do not know the importance of the international cricket stadium to be built within a span of three years," Narvekar said.

A section of the villagers and Goa Foundation had opposed the project, *alleging* that the project would lead to loss of cultivable and green areas.

The work to put soil on the 75 yard cover area has been started and will be completed soon. Also, the work of underground drainage system and electricity through solar energy will begin shortly, Narvekar said.

"We are planning to complete the north and south stands by 2013 and an international match will be played in December 2013," Narvekar said. The stadium will require a pavilion, special dressing rooms and other amenities for hosting international matches.

The stadium with the pitch will be constructed in an area of 50,000 sq m while facilities for players and other requirements will take up about 40,000 sq m, Narvekar said.

A sports village with small houses for players, pitches for practice and parking space would be accommodated in the 40,000 sq m area. The ambience of a typical Goan village will be created in the sports village, but hotels and shopping malls, which were proposed in the earlier plan, would be dropped.

Reacting to opposition from some villagers to the project, Narvekar conceded that acquisition of additional land in the forest area was a problem. "We will try our best not to fell more trees in this area," Narvekar said.

The project will be completed in stages, and by outsourcing various types of works to different parties. The tender for leveling of the area from boundary to boundary has been finalized and permission has been obtained from the panchayat.

125 trees cut to make way for cricket stadium

TIMES NEWS NETWORK

Panaji: Around 125 trees were felled from Saturday onwards for the 75 metre pitch and pavilion area at the site earmarked for the international cricket stadium at Tivim.

A section of the villagers *alleged* that GCA had violated the assurance given to the high court of Bombay at Goa that no trees would be cut and no work carried out until the requisite approvals from various authorities were obtained. GCA president Dayanand Narvekar, however, said the trees were cut as per the assurance given to the court that the 40,000 sq m additional area comprising forest would not be touched till approvals from the Union ministry of environment and forest were obtained.

NO BALL: Felled tree at Tivim

The trees felled over the weekend, were of local species sanvor, bor, shivni and other varieties.

Local farmer Uday Malvankar lodged a complaint at Mapusa police station on Saturday, *alleging* that GCA had violated the assurance given to the court. "The work of felling the trees had started on Saturday morning. The police had stopped the work on Saturday, but labourers were seen loading the timber in trucks at the site on Monday," Malvankar *alleged*.

Narvekar speaking to reporters at Porvorim Cricket Academy ground on Monday denied the allegation and stated that 125 trees had been felled as per the assurance given to the court, that no trees would be touched within the forest area of 40,000 sq m.

▶ 'No opposition', P 6

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Exhibit 5

The Goa Foundation

G-8 St Britto's Apartments,
Feira Alta, Mapusa 403507 Goa

6th December 2010

To:

Dr. Sashi Kumar
Principal Chief Conservator of Forests
Forest Department
Panaji, Goa.

Sub: Permission to fell trees in relation to cricket stadium

Dear Dr. Kumar,

I have been informed that the Goa Cricket Association has been granted permission to fell approximately 125 trees which are located in the agricultural fields on which the international cricket stadium is proposed.

In my opinion such a course of action, if sanctioned and allowed by the forest department, would be in utter disregard of the recent order of the Bombay High Court dated 12.8.2010 in WP No. 321/2010 dealing with the matter. The Forest Department is a party in the above petition.

The High Court order states very clearly that no activity will start at the site till the GCA has all the necessary approvals. One of the mandatory approvals is the environment clearance for the project. GCA itself has submitted in the court proceedings on affidavit that they have contracted with a consultant in Mumbai to assist them to get environmental clearance. Without environment clearance no activities can be permitted at any site which includes felling of trees.

In addition, the forest conservation rules also require that where a project requires forest clearance in part of the area, no work will commence in the non-forest area till forest clearance is obtained. As of the time of this letter, the issue of forest clearance granted to the project is under review.

I am therefore writing to you to ensure that no trees are felled on the said plot (even though it is admittedly not in the forest area) till such time as environment clearance for the project as required is obtained. Any license to fell trees under the Trees Act, if granted, may accordingly be suspended till the environment clearance is obtained.

I am marking a copy of this letter to the DCF, North and to the RFO, Karaswado, Mapusa as any attempt by the party to fell trees in such circumstances would be viewed extremely seriously.

Yours sincerely,

(Dr Claude Alvares)

Cc:
DCF (North)
RFO, Carasvaddo, Mapusa for information.

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The Goa Foundation

G-8 St Britto's Apartments,
Feira Alta, Mapusa 403507 Goa.
22 December 2010

The Chief Secretary,
Government of Goa,
Secretariat, Porvorim, Goa. (By Fax)

Subj: Commencement of Phase I Work of International Cricket Stadium in Violation of Court's orders

Dear Sir,

Over 125 trees have been felled at the site of the proposed International Cricket Stadium. Last week, excavators and trucks have commenced the work of excavating the site for foundations. The land has been rented out to the Goa Cricket Association under a lease agreement by the government of Goa which acquired it. Therefore, the Goa Government is still the owner of the land and partly responsible for what happens to it or on it.

The commencement of work at the site without environment clearance is in violation of the undertaking given by the GCA to the High Court that no work would commence until the party had obtained all approvals including environment clearance. The project does not even have a construction license from the panchayat of Thivim. The Environment Impact Assessment Notification 2006 prohibits development, construction or land preparation until the environment clearance is granted. There are a slew of orders of the Supreme Court as well on projects commencing work without environment clearance in writ petition No.460/2004 (Goa Foundation v/s UOI).

I am therefore requesting you to direct the GCA to immediately halt all work at the site within the next 24 hours, failing which the Foundation would move the High Court for the necessary orders. Since contempt has already occurred, necessary contempt petition against the office bearers of the GCA is being filed in any event. Please act to uphold the rule of law.

Sincerely,

(Dr Claude Alvares)
Director

The Goa Foundation

G-8 St Britto's Apartments,
Feira Alta, Mapusa 403507 Goa.
22 December 2010

The Secretary, Environment,
Government of Goa,
Secretariat, Porvorim, Goa. (By Fax)

Subj: Commencement of Phase I Work of International Cricket Stadium in Violation of Court's orders

Dear Sir,

Over 125 trees have been felled at the site of the proposed International Cricket Stadium. Last week, excavators and trucks have commenced the work of excavating the site for foundations. The land has been rented out to the Goa Cricket Association under a lease agreement by the government of Goa which acquired it. Therefore, the Goa Government is still the owner of the land and partly responsible for what happens to it or on it.

The commencement of work at the site without environment clearance is in violation of the undertaking given by the GCA to the High Court that no work would commence until the party had obtained all approvals including environment clearance. The project does not even have a construction license from the panchayat of Thivim. The Environment Impact Assessment Notification 2006 prohibits development, construction or land preparation until the environment clearance is granted. There are a slew of orders of the Supreme Court as well on projects commencing work without environment clearance in writ petition No.460/2004 (Goa Foundation v/s UOI).

I am therefore requesting you to direct the GCA to immediately halt all work at the site within the next 24 hours, failing which the Foundation would move the High Court for the necessary orders. Since contempt has already occurred, necessary contempt petition against the office bearers of the GCA is being filed in any event. Please act to uphold the environment regulations of this land.

Sincerely,

(Dr Claude Alvares)
Director

42A
Exhibit 6

GOA CRICKET ASSOCIATION

AFFILIATED TO
THE BOARD OF CONTROL FOR CRICKET IN INDIA
(Society Regd. No. 585)
Rizvi Sadan, 2nd Floor, Near Municipal Market, Panaji - Goa 403 001
E-mail: goacricketassociation@rediffmail.com
Website : www.goacricketassociation.com

PRESIDENT :
Adv. Dayanand G. Narvekar

Vice Presidents
★ Shri Sanjay Kanekar
★ Shri Chetan Dessai

Hon. Secretary
★ Shri Prasad V. Phaterpekar
Hon. Treasurer
★ Shri Vinod Phadke

Hon. Jt. Secretary
★ Shri Suryakant Naik
★ Shri Amaresh Naik

Members :
★ Shri Sudesh Prabhudessai
★ Shri Megnath Shirodkar
★ Shri Vilas Desai
★ Shri Shrikrishna Tari
★ Shri Sharad Chopdekar

Dated :- 19th May, 2010
Ref No. - GCA/OW/HS/2010/768

To,
M/s. Grass Roots Research & Creation India (P) Ltd.,
G-52, Kalkaji,
New Delhi -110 019

(Kind Attention: Dr. Dhiraj Kr. Singh, Managing Director)

Dear Sir,

Please refer to your quotation for obtaining Environmental Clearance from the concerned authorities in respect of setting up of our **Stadium Project of 1.3 lac sq. mtrs at Goa** and subsequent discussions on the subject.

The following terms have been mutually agreed:

A. Scope of Work

- Form 1, Form 1A and Conceptual Plan.
- Primary and Secondary Data Generation for preparing EIA/ EMP report.
- Socio-economic Survey (R&R issues).
- Impact analysis by experts.
- Preparation of report including typing, drafting etc.
- Submission of application and necessary documents along with EIA/ EMP report to the concerned authorities.
- Presentation to the concerned authorities.
- Environment Clearance from the concerned authorities.

TERMS AGREED:

A. A sum of Rs. 3.85 Lac plus service tax will be paid for the above mentioned services and the time period for the completion of above mentioned scope of work will be approx. 4 months for each of our project.

GOA CRICKET ASSOCIATION ★ RIZVI SADAN PANAJI

1

42 B

GOA CRICKET ASSOCIATION

Phone: 0832 2421026
Fax: 0832 2420155

AFFILIATED TO
THE BOARD OF CONTROL FOR CRICKET IN INDIA
(Society Regd. No. 585)
Rizvi Sadan, 2nd Floor, Near Municipal Market, Panaji - Goa 403 001
E-mail: goacricketassociation@rediffmail.com
Website : www.goacricketassociation.com

PRESIDENT :
Adv. Dayanand G. Narvekar

Vice Presidents
★ Shri Sanjay Kanekar
★ Shri Chetan Dessai

Hon. Secretary
★ Shri Prasad V. Phaterpekar

Hon. Treasurer
★ Shri Vinod Phadke

Hon. Jt. Secretary
★ Shri Suryakant Naik
★ Shri Amaresh Naik

Members :
★ Shri Sudesh Prabhudessai
★ Shri Megnath Shirodkar
★ Shri Vilas Desai
★ Shri Shrikrishna Tari
★ Shri Sharad Chopdekar

B. The mode of payment in respect of the project shall be as follows:

a) Mobilization Advance along with work order -20%

b) After preparing draft EIA / EMP report along with Form 1, Form 1A and Conceptual Plan -15%

c) Finalizing Form 1, Form 1A, Conceptual Plan ,EIA/EMP and submission to the concerned authorities -30%

d) After finalization of the Agenda for presentation -10%

e) After Presentation -15%

f) Environmental Clearance -10%

1. You will commence the work immediately on receipt of this order.

2. If due to any reason whatsoever, the scope of work is reduced or is abandoned, the Consultant shall be paid for the work done as per mutual decision on the basis of payment clause.

3. Copyright of all the drawings and the works executed from you will remain the property of the employer.

4. Documents related to Land, Site Layout Plan, other approvals obtained from authorities and other company documents etc. required by the concerned authorities will be provided by us.

This letter is being forwarded in two copies. The enclosed copy may please be returned after your endorsement, to this office as a letter for your acceptance of the above details, at the earliest possible.

With best regards,
For Goa Cricket Association

Prasad V. Phaterpekar
Hon. Secretary

GOA CRICKET ASSOCIATION ★ RIZVI SADAN PANAJI

GRASS ROOTS RESEARCH CREATION INDIA (P) LTD. NEW DELHI

10/06/10

42C

Exhibit 7

IN THE HIGH COURT OF BOMBAY AT PANAJI

WRIT PETITION NO. 420/1998.

The Goa Foundation, represented by its Secretary, Dr Claude Alvares, with registered office at Rm.7, Above Mapusa Clinic, Mapusa 403 507. ... Petitioner

V E R S U S

1. Teksid Kalyani Iron Foundry Ltd. Sesa Ghor, 4th Floor, 20 EDC Complex, Patto, Panaji - Goa.

2. The Environment Public Hearing Panel through the Collector, North Goa, office of the Collector, Panaji, Goa.

3. The Panchayat of Navelim through its Sarpanch, Navelim, Sanquelim, Goa.

4. State of Goa through its Secretary, Secretariat, Panaji, Goa.

5. The Goa State Pollution Control Board through its Member-Secretary, Patto, Panaji, Goa.

6. The Secretary, Ministry of Environment & Forests, Paryavaran Bhavan, C.G.O. Complex, Lodi Road, New Delhi 110 003.

7. Goa Industrial Development Corporation Shree Sarsvati Mandir Building 18th June Road, Panaji 403 001. Goa.

... Respondents

Ms. Norma Alvares, Advocate for the Petitioner.

Ms. Aparna Vishwanathan with Shri U. Rao, Advocate for Respondent No. 1 and 3.

Shri C. A. Ferreira, Govt. Advocate for Respondent No. 4.

ShriS.R. Rivonkar, Advocate for Respondent No. 5 State Pollution Board.

...2/-

Shri G.V. Tamba, Central Govt. Standing Counsel for Respondent No.6.

Shri M.S. Sonak and Shri U.G. Pangam, Advocates for Respondent No.7.

CORAM: R.K. BATTA, &
R.M.S. KHANDEPARKAR, JJ.

DATE: 25TH JANUARY 1999.

ORAL ORDER: (PER BATTA, J.)

In this petition, the construction which is being carried out by respondent No.1 is subject matter of challenge on the ground that the same has been commenced without mandatory clearance from the Ministry of Environment and Forests, New Delhi in accordance with the Environment Impact Assessment Notification, 1994. Respondent No.1 along with Affidavit dated 14th January, 1999, has placed various permissions sought from the authorities and has also placed on record whatever construction has been carried out at the site as set out in paras 12 and 13 of the Affidavit including a cement building which is partially erected. The photographs showing the construction in question referred to in paras 12 and 13 of the Affidavit have been annexed. Respondent no.1 has, in para 10, stated that all construction work at the site was suspended following receipt of Show Cause Notice dated 14th October, 1998. Respondent No.1 has further undertaken in this Affidavit in para 15, that the construction work shall not be recommenced until obtaining the Environment Clearance from the Ministry of Environment and Forests, New Delhi.

..3..

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Learned Government Advocate Shri C. A. Ferreira has stated before us that the concerned authorities including Panchayats and Municipal Authorities shall be instructed that in case of projects covered under the said Notification, no construction work, preliminary or otherwise, relating to the setting up of the project, shall be allowed to be undertaken till the Environment and/or Site Clearance is obtained. According to him, these instructions shall be issued within a week.

Directions to Authorities
They must ensure that no construction is allowed to be undertaken

Forest Dept - fell trees
Town Planning - our permission not required

In view of the Affidavit filed by respondent No.1 to which we have already referred and the statement made by learned Government Advocate no further directions are required to be given in the matter in this Petition. The Undertaking given by respondent no.1 is accepted. Respondent No.1 shall not undertak any construction work/recommence construction work until obtaining the Environmental Clearance from the Ministry of Environment and Forests, New Delhi.

Petition stands disposed of, in the aforesaid terms.

CERTIFIED COPY

"Date on which copy applied for 28-1-99
Date on which application completed 28-1-99
Date given for taking delivery 6-2-99
Date on which copy was ready 6-2-99
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copying and comparing charges — Rs. 4.50
Rounded to — Rs 5=0
Total cost — Rs 5=00

Assistant Registrar
High Court of Bombay
Panaji Bench (Goa)

30
12/99

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Exhibit 8

GOVERNMENT OF GOA
OFFICE OF THE DY. CONSERVATOR OF FORESTS
NORTH GOA DIVISION, PONDA-GOA. 403401
Phone no. 0832-2312095, 2312856

No. 4/DCFN/ Valuation-PJM/2010-11/349 Dated:- 07 /12/2010

To,
The Goa Crocket Association,
O/o Shri Vijaykumar Sawant,
Associates, Porvorim, Bardez.

Sub:- NOC for cutting of trees from GCA proposed Cricket Stadium.

Sir,

In continuation to this office letter No. 4/DCFN/Valuation-PJM/2010-11/345 dated 02/12/2010, it is further informed that the tree felling permission is accorded subject to the compliance of the orders of the Hon'ble High Court dated 08/09/2010 in the writ petition No. 321 of 2010 by the Goa cricket Association. The Goa Cricket Association shall be solely responsible for the compliance thereof.

Yours faithfully,

07/12/10

(Dr. G. Trinadh Kumar) IFS
Dy. Conservator of Forest,
North Goa Division,
Ponda –Goa.

Copy to:-

1- The Sub-Divisional Forest Officer, Mapusa for information.
2- The Range Forest Officer, Panaji with reference to his office letter No. 19/Valuation/RFO/PJM/10-11/648 dated 07/06/2008 for information and necessary action.

Copy submitted to:-

The Conservator of Forests (Conservation) Panaji for information with reference to his letter No. CF (C) /(9)/TREE-Fell (N)-FD/2010/4265 dated 26/11/2010.

The Director, Sports & Youth Affairs, Panaji for information.

Exhibit 9 429

भारत सरकार
पर्यावरण एवं वन मंत्रालय
GOVERNMENT OF INDIA
MINISTRY OF ENVIRONMENT & FORESTS
क्षेत्रीय कार्यालय (दक्षिण वलय)
Regional Office (Southern Zone)
Kendriya Sadan, 4th Floor, E&F Wings, 17th Main Road,
2nd Block, Koramangala, Bangalore - 560 034

No :
तार : पर्यावरण, बेंगलूर
Telegram : PARYAVARAN
BANGALORE
दूरभाष :
Telephone : 080-25635908
Tele Fax : 080-25537184

No.4-GOB427/2007-BAN/ 8579
Dated the 3rd February, 2011

To

The Secretary (Forests),
Government of Goa,
Secretariat Annexe,
Junta House, 3rd Floor,
Panaji (Goa).

Subject: Diversion of 4.3725 ha. of private forest land for International Cricket Stadium at Tivim in North Goa District, in favour of Director of Sports & Youth Affairs, Goa.

Sir,

I am directed to refer to this office letter No.4-GOB427/2007-BAN dated the 23rd October, 2008 wherein approval under Section'2' of Forest (Conservation) Act, 1980 for the above project was accorded subject to certain conditions. As per the proposal of the State Government, construction of International Cricket Playfield is proposed in the forest land. Subsequently, M/s Goa Foundation had filed a W.P.No.321/2010 in the Mumbai High Court, Panaji Bench objecting diversion of forest land for construction of International Cricket Stadium at Tivim. The petitioner *inter-alia* alleged that it is proposed to construct buildings for commercial activities including malls, restaurants, hotels etc. in the proposed forest area. In view of the above, this office vide letter No.F©A/12.7/451/GOA dated 20.05.2010 had requested the State Government to furnish details of activities proposed in the forest land along with a sketch of the layout. The Mumbai High Court, Panaji Bench while disposing of the W.P. No.321/2010 vide order dated 12.08.2010 had directed the following among others:-

"It will be open for the petitioners to make a representation to the first respondent raising all the grievances which are made in this petition. First respondent shall deal with the representation as expeditiously as possible".

In pursuance of the order of the Hon'ble High Court of Bombay at Goa in Writ Petition No.321/2010 dated 12.08.2010, the petitioner, M/s Goa Foundation vide letter dated 14.09.2010 had submitted a representation to this office with a request to withdraw/revoke the approval granted under Forest (Conservation) Act, 1980 for the above project. This office vide letter of even number dated 30.09.2010 had requested the reply of State Government on the representation of M/s Goa Foundation along with details sought by this office vide letter No.F©A/12.7/451/GOA dated 20.05.2010 within a period of one month. The State Government was also requested to ensure that no work is carried out in the diverted forest land for the above project in the meantime and until further orders. Meanwhile, another representation on behalf of Mr. Victor Agnelo Alvares, Mr. Ladislaus Fernandes and Mr. Santan Marcel Godinho has been received in this office for cancellation of the approval granted for the project under Forest (Conservation) Act, 1980, reconsider

the entire matter by conducting a detailed survey and environment assessment study of the area and its surroundings, hear on the above issues before taking any further decision to grant approval to the project. On perusal of the said representation, it was noticed that the issues raised are similar to those raised by M/s Goa Foundation. Since the State Government's reply on the representation of M/s Goa Foundation was not received, this office vide letter dated 22.12.2010 reminded the State Government for the same. Now, Shri Victor Agnelo Alvares & Others have filed a Writ Petition in Hon'ble High Court of Bombay at Panaji, Goa in which the petitioners have sought quashing and setting aside the approval granted for the project under Forest (Conservation) Act, 1980.

It is once again requested that the requisite information sought by this office vide letter dated 30.09.2010 may please be furnished within a period of one month so that the representation could be dealt with in compliance of the orders of the Hon'ble High Court of Bombay at Panaji dated 12.08.2010 in Writ Petition No.321/2010. It has been decided to keep the approval granted by this office vide letter No.4-GOB427/2007-BAN dated the 23rd October, 2008 under Forest (Conservation) Act, 1980 for diversion of 4.3725 ha. of private forest land for International Cricket Stadium at Tivim in North Goa District, in favour of Director of Sports & Youth Affairs, Goa in abeyance till a decision is taken on the representation of M/s Goa Foundation.

Yours faithfully,

(N.S.Murali)
Deputy Conservator of Forests (Central)

Copy to:-

1. The Director General of Forests & Special Secretary to Govt. of India, Ministry of Environment & Forests, Paryavaran Bhavan, CGO Complex, Lodhi Road, New Delhi – 110 003.

2. The Additional Principal Chief Conservator of Forests, Government of Goa, Forest Department, Panaji (Goa).

3. The Deputy Conservator of Forests (M&E), Govt. of Goa, Forest Department, Panaji (Goa), PIN- 403 001.

4. The Director of Sports & Youth Affairs, Directorate of Sports & Youth Affairs, Campal, Panaji (Goa).

5. The Director, Goa Foundation, G-8, St Britto's Apartments, Feira Alta, Mapusa 403507, Goa.

6. Guard file.

(N.S.Murali)
Deputy Conservator of Forests (Central)

Exhibit 10.
42 T

HANDBOOK

OF

Forest (Conservation) Act, 1980
(With Amendments made in 1988)

Forest (Conservation) Rules, 2003
(With Amendments made in 2004)

Guidelines & Clarifications
(June, 2004)

GOVERNMENT OF INDIA
Ministry of Environment & Forests
New Delhi.

CHAPTER 4
Some Clarifications

4.1 Delegation of Powers

(i) All proposals involving diversion/dereservation of forest land up to 40 hectares, and proposals for clearing of naturally grown trees in forest area or portion thereof shall be sent by the concerned State/UT Government to the concerned Regional Office of MOEF.

(ii) Chief Conservator of Forests of the concerned Regional Office shall be competent to finally dispose of all proposals (including decision regarding violation of Act) involving diversion/dereservation for forest land up to 5 hectare , except in respect of proposals for regularisation of encroachments and mining (including renewal of mining leases). Similarly, proposals involving clearing of naturally grown trees in forest area or portion thereof for reforestation shall also be finally disposed of by the Chief Conservator of Forests of the concerned Regional Office, subject to guidelines/instructions issued in this regard (refer to para 1.8) and any other instructions issued from time to time.

(iii) In the absence of Chief Conservator of Forests, these powers shall be exercised by the concerned Conservator of Forests of the Regional Office in case the post of Chief Conservator of Forests is vacant due to transfer, long leave, etc. (In respect of Regional Office at Chandigarh, these powers shall be exercised by Conservator of Forests of the Regional Office of Chandigarh).

(iv) A list of cases finally disposed of and a list of cases rejected along with reasons thereof for rejection would be required to be sent every month to the MOEF by the Regional Office.

(v) (a) In respect of proposals involving diversion of forest area above 5 hectares and up to 40 hectares and all proposals for regularisation of encroachments and mining up to 40 ha., the proposals shall be examined by the Regional Chief Conservator of Forests/Conservator of Forests in consultation with an Advisory Group consisting of representatives of the State Government from Revenue Department, Forest Department, Planning and/or Finance Department and concerned Department whose proposal is being examined. The views of the Advisory Group shall be recorded by the Regional Chief Conservator of Forests and along with the same, the proposal shall be sent to Secretary, MOEF for consideration and final decision. It is to be clarified that views of this Advisory Group in no way shall be binding while deciding the proposal. The meeting of the Advisory Group may be held at the State Capital. The proposal will not be deferred for want of quorum.

(b) The meeting of the State Advisory Group (SAG) will normally be held once in a month at concerned State Capital. The Regional Chief Conservator of Forests shall act as Chairman of the Advisory Group and Nodal Officer may be nominated to work as Member Secretary of the State Advisory Group

(c) State Government may take immediate steps to nominate representatives of the State Government not below the rank of Joint Secretary for the Advisory Group. Nodal Officer may be nominated to work as Member Secretary of the State Advisory Group.

(d) The details of the officers alongwith addresses, telephone number, etc. may be directly communicated to the concerned Regional Chief Conservator of Forests under intimation to this Ministry to facilitate early processing of the proposals by the Advisory Group.

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4.2 **Two Stage Clearance of Proposals**

(i) Forestry clearance will be given in two stages. In 1st stage, the proposal shall be agreed to in principle in which usually the conditions relating to transfer, mutation and declaration as RF/PF under the Indian Forest Act, 1927 of equivalent non-forest land for compensatory afforestation and funds for raising compensatory afforestation thereof are stipulated and after receipt of compliance report from the State Government in respect of the stipulated conditions, formal approval under the Act shall be issued.

(ii) However in cases where compliance of conditions stipulated in the in-principle approval is awaited for more than 5 (five) years from the State Governments, the in-principle approvals would summarily be revoked. After the revocation of the in-principle approval, if the State Government/user agency is still interested in the project, they would be required to submit a fresh proposal which shall be considered de-novo.

(iii) Sometimes the proposals for renewal of mining leases are accorded in-principle approval/temporary working permission subject to compliance of certain conditions. It has come to the notice of the Ministry that many a times the user agency approaches the Courts against the very conditions on which the proposals are accorded in-principle approval. Ideally the user agency should sort out any grievance in respect of any stipulated condition with the Central Government/State Government. **Therefore, it has been decided that in cases where the user agency decides to approach the Courts for redress, the in-principle approval and temporary working permission shall stand revoked/in abeyance unless the Court cases are withdrawn and conditions complied with or till the cases are decided by the Courts.**

(iv) Approved proposals shall not normally be reopened for review of the conditions, which have been stipulated earlier.

4.3 **Anticipatory Action by the State/UT Governments – Penal Compensatory Afforestation**

(i) Cases have come to the notice of the Central Government in which permission for diversion of forest land was accorded by the concerned State Government in anticipation of approval of the Central Government under the Act and/or where work has been carried out in forest area without proper authority. Such anticipatory action is neither proper nor permissible under the Act which clearly provides for prior approval of the Central Government in all cases. Proposals seeking ex-post-facto approval of the Central Government under the Act are normally not entertained. The Central Government will not accord approval under the Act unless exceptional circumstances justify condonation. However, penal compensatory afforestation would be insisted upon by the MOEF on all such condonation.

(ii) The Penal compensatory afforestation will be imposed over the area worked/used in violation. However, where the entire area has been deforested due to anticipatory action of the State Government, the penal compensatory afforestation will be imposed over the total lease area.

4.4 **Projects Involving Forest as well as Non-forest Lands**

Some projects involve use of forest land as well as non-forest land. State Governments/project authorities sometimes start work on non-forest lands in anticipation of the approval of the Central Government for release of the forest lands required for the projects. Though the provisions of the Act may not have technically been violated by starting of work on non-forest lands, expenditure incurred on works on non-forest lands may proved to

be infructuous if diversion of forest land involved is not approved. **It has, therefore, been decided that if a project involves forest as well as non-forest land, work should not be** started on non-forest land till approval of the Central Government for release of forest land under the Act has been given.

4.5 Diversion for Construction of Houses

(i) On a proposal for construction of houses, the late Prime Minister had observed : "Destruction of our forest has already caused great damage to our environment. Therefore, I am not at all in favour of use of forest land for construction of houses .... . The State Government should find other land for such purposes."

The Central Government will not entertain any proposal for diversion of forest land for construction of residential or dwelling houses.

(ii) Diversion of forest land for construction of other buildings also will not be normally considered. However, such diversion may be allowed for construction of schools, hospitals/dispensary, community halls, cooperatives , panchayats, tiny rural industrial sheds of the Government etc., which are to be put up for the benefit of the people of that area, but such diversion should be strictly limited to the actually needed area and further it should not exceed one hectare in each case.

4.6 Extraction of Minor Minerals from the River Beds

(i) Extraction of minor minerals like boulders, bajri, stone, shell, etc. from the river beds shall not be permitted if the river bed is in a national park or a wildlife sanctuary unless such extraction is for the benefit of the forest or wildlife.

(ii) There shall be no labour camp in the forest area for the labour involved in the extraction work.

(iii) Extraction of minor minerals shall be from the middle of the river bed after leaving one fourth of the river bed on each bank untouched.

4.7 Safety Zone for Mining Operations

(i) **Forest area required for safety zone for mining operations should not be part of the forest area proposed for diversion. However, it should be indicated separately in the proposal**. Such area will have to be fenced at the cost of the project authority. Further, project authority will have to deposit funds with the Forest Department for the protection and regeneration of such safety zone area and also will have to bear the cost of afforestation over one and a half times of the safety zone area in degraded forest elsewhere.

(ii) Safety zone area calculation in the proposal should be done taking 7.5 metres strip of the forest land all along the outer boundary of the mining lease area. If it is a cluster proposal, then the outer boundaries of the cluster should be taken as the safety zone.

(iii) In order to safeguard public roads, forest roads, natural streams and nallahs located in mining lease areas, it is necessary that no mining activities should be carried out up to certain reasonable extent. This area can also be included in the safety zone calculation and provision for its fencing and regeneration should be made in the proposal.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
GOA BENCH, AT PANAJI

Writ Petition No. of 2010

The Goa Foundation)... Petitioners
v/s
Goa Cricket Association and anr)... Respondents

AFFIDAVIT IN SUPPORT OF THE PETITION

I, Dr Claude Alvares, Indian national, aged 62 years, resident of Parra, Bardez, Goa, do solemnly state on oath as under

1. I have today filed a writ petition in public interest for the reliefs sought therein.

2. I state that there is no personal gain, private motive or oblique reason in filing the PIL.

3. The petitioner is ready to pay costs as ordered by the Court, if it is ultimately held that the petition is frivolous or has been filed for extraneous considerations or that it lacks *bona fides*.

4. The petitioner shall disclose the source of its information, leading to the filing of the PIL, if and when called upon by the Court, to do so.

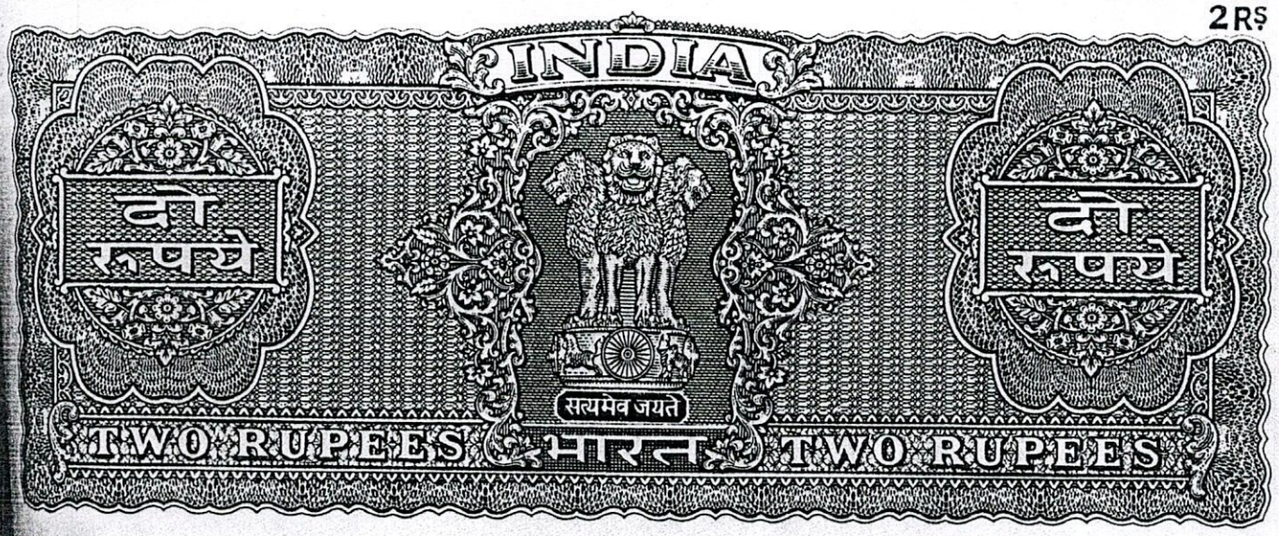
5. I solemnly declare and say that what has been stated in paragraphs 1-14, 17,18, 19 and 21 are true to the best of my

knowledge and what is stated in para 15, 16 and 20 are in the nature of legal submissions and/or inferences of facts, which I believe to be true. The documents annexed are true copies of their originals.

Solemnly affirmed at Panaji

this the 23 day of December 2010 Deponent

2 Rs



CERTIFIED COPY

It is hereby certified that the file No. 23/Goa/86 existing in the records of this Office relating to the registration of the Society The GOA FOUNDATION contains a Certificate of Registration which is as follows:-

" CERTIFICATE OF REGISTRATION "

(See rule 5)

(The Societies Registration Act, 1860)

(Central Act 21 of 1860)

Registered No. 23/Goa/86.

It is certified that the Society The GOA FOUNDATION has this day been duly registered under the Societies Registration Act, 1860 (Central Act 21 of 1860).

Given under my hand this day of 11th March, 1986.

FOLLOWS THE SEAL OF:-

DISTRICT REGISTRAR
AND
HEAD OF NOTARY SERVICES
* PANAJI *

Sd/-
(D. V. Coissoro)
DISTRICT REGISTRAR
AND
HEAD OF NOTARY SERVICES.

P.T.O.